Government of Madras

LAW (DRAFTING) DEPARTMENT

THE MADRAS CODE

IN FOUR VOLUMES

VOLUME I

THE UNREPEALED REGULATIONS OF THE GOVERNOR OF FORT St. GEORGE IN COUNCIL, THE UNREPEALED LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL AND OF THE INDIAN LEGISLATURE AND THE REGULATIONS UNDER THE GOVERNMENT OF INDIA ACT, 1870

FIFTH EDITION

MADRAS

PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS

1936

PRICE, *Rs.* 2-10-0]

PREFACE

This, the fifth edition of the Madras Code consisting of four volumes has been prepared on the same lines as the last edition.

2. The first volume contains the unrepealed Regulations of the Governor of Fort St. George in Council, the unrepealed local Acts of the Governor-General in Council and of the Indian Legislature, and the Regulations under the Government of India Act, 1870 (33 Vict., Ch. 3)—since repealed by the Government of India Act, 1915 (5 and 6, Geo. 5, Ch. 61—in force in the Presidency of Madras. The second volume contains the unrepealed Acts of the Governor of Fort St. George in Council down to the year 1914. The remaining unrepealed Acts of the Governor of Fort St. George in Council and the unrepealed Acts of the local Legislature down to the year 1923 are contained in Volume III. The fourth and last volume contains the remaining unrepealed Acts of the local Legislature down to the middle of November 1935. The Acts and Regulations are printed in chronological order.

3. Enactments of the Governor of Fort St. George in Council which are only in force in the Scheduled Districts of the Madras Presidency, and purely amending Acts have not been printed *in extenso*. Acts purely of a private nature such as Act XXXVII of 1858 and Madras Acts VI of 1869, III of 1911 and III of 1920 and Acts of a temporary nature which have ceased to be operative such as Madras Acts IV of 1922 and VIII of 1922 have not been included in the Code.

4. A complete chronological table has been prefixed to each volume showing how the enactments are printed and a concise index to the whole Code has been appended to the last volume.

5. For the purpose of ascertaining what rules and orders have been issued by the Local Government under the various enactments in the Code, the list of Local Rules and Orders and its supplements which have been published separately, from time to time, should be consulted.

CONTENTS

PAGE

Preface.

Chronological Tables.

VOLUME I :

Part I—Unrepealed Regulations of the Governor of Fort St. George in Council 1

,, II—Unrepealed Local Acts of the Governor-General in Council and of the Indian Legislature in force in Madras .. 72

,, III—Unrepealed Regulations made under the Government of India Act, 1870 (33 Vict., Ch. 3) (since repealed by the Government of India Act, 1915) in force in Madras .. 273

VOLUME II :

Part IV—Unrepealed Acts of the Governor of Fort St. George in Council and of the local Legislature down to the year 1914. 285

VOLUME III :

Part IV—*cont.*—The remaining unrepealed Acts of the Governor of Fort St. George in Council and of the local Legislature down to the year 1923 773

VOLUME IV :

Part IV—*cont.*—The remaining unrepealed Acts of the Governor of Fort St. George in Council and of the local Legislature down to the middle of October 1935 .. 1,537

INDEX 2,101

CHRONOLOGICAL TABLE

VOLUME I.

PART I.

Unrepealed Regulations of the Governor of Fort St. George in Council.

Year.	Number.	Short title.	Repeals and amendments.	Page
1802	III	The Madras Administration of Estates Regulation, 1802.	Repealed in part, X of 1861; XVII of 1862; III of 1873; XVI of 1874; XII of 1876; XI of 1901, s. 3; Madras Regulation V of 1829, s 2; Madras Act V of 1867; Madras Act II of 1869.	1
	XIX	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.	Repealed in part, XI of 1901, s. 3; Madras Act II of 1869.	5
	XXV	The Madras Permanent Settlement Regulation, 1802.	Repealed in part, Madras Act II of 1869. *See* Madras Act II of 1894; Madras Act II of 1902, s. 3.	6
	XXVI	The Madras Land Registration Regulation, 1802.	Repealed in part, Madras Act II of 1864, s. 65. *See* Madras Act III of 1896, ss. 12 and 14. Amended, XI of 1901, s. 3.	11
	XXIX	The Madras Karnams Regulation, 1802.	Repealed in part, XII of 1876; Madras Regulation II of 1806, s. 7. *See* Madras Act II of 1894 and Madras Act III of 1895.	12
1803	I	The Madras Board of Revenue Regulation, 1803.	Repealed in part, XXIII of 1871; X of 1873; Madras Regulation II of 1806; Madras Regulation V of 1828; Madras Regulation III of 1830; Madras Act II of 1864, s. 62; Madras Act II of 1869. Repealed in part and supplemented, Madras Act I of 1894.	16
	II	The Madras Collectors Regulation, 1803.	Repealed in part, XXIII of 1871; XII of 1873; XII of 1876; Madras Regulation II of 1806; Madras Act II of 1864, s. 62; Madras Act VI of 1865; Madras Act II of 1869. *See* Madras Act III of 1896, s. 18.	22
1804	V	The Madras Court of Wards Regulation, 1804.	Repealed, except as regards the scheduled districts, Madras Act I of 1902.	29
1816	I	The Tanjore Police Regulation, 1816.	Repealed in part, XVIII of 1861.	29

PART I—*cont.*

Unrepealed Regulations of the Governor of Fort St. George in Council.

Year.	Number.	Short title.	Repeals and amendments.	Page
1816 —*cont.*	XI	The Madras Village-police Regulation, 1816.	Repealed in part, XVII of 1862 (as amended by XXXVI of 1867); XII of 1876, Madras Regulation IX of 1828. Amended, Madras Regulation IV of 1821, s. 6; Madras Act II of 1920.	31
	XII	The Madras Village-lands Disputes Regulation, 1816.	Repealed in part, XII of 1876 Madras Act II of 1869; Madras Act IV of 1897.	34
1817	VII	The Madras Endowments and Escheats Regulations, 1817.	Repealed in part, XX of 1863. Repealed so far as the Hindu Religious Endowments are concerned by Madras Act II of 1927. Amended, Madras Act VIII of 1914, s. 2.	40
	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.	Repealed in part, X of 1861; XI of 1876. Amended, XIII of 1894; XI of 1901, s. 3.	44
1819	II	The Madras State Prisoners Regulation, 1819.	Repealed in part, XVI of 1874; XII of 1876.	46
1821	IV	The Madras Village-police Regulation, 1821.	Repealed in part, XVII of 1862; XII of 1876.	50
1822	IV	The Madras Permanent Settlement (Interpretation) Regulation, 1822.	Amended, XI of 1901, s. 3.	51
	VII	The Madras Native Public Officer's Regulation, 1822.	Repealed in part, XI of 1864; XVI of 1874; Madras Act II of 1869.	52
	IX	The Madras Revenue Malversation Regulation, 1822.	Repealed in part, XII of 1876; XI of 1901, s. 3; Madras Regulation III of 1823; Madras Regulation VII of 1828, s. 5; Madras Act II of 1869. Supplemented, XXXVI of 1837.	52
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.	Repealed in part, XII of 1876; Madras Regulation VII of 1828; Madras Act II of 1869. Amended, XI of 1901, s. 3.	61
1828	VII	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.	Repealed in part, XII of 1876; Madras Act II of 1869. Supplemented, XXXVI of 1837; Madras Act VII of 1914, s. 4.	62
1829	V	The Madras Hindu Wills Regulation, 1829.	Repealed in part, XII of 1876; Madras Act II of 1869. Repealed in part and amended, XI of 1901, s. 3.	65
1830	I	The Madras Sati Regulation, 1830.	Repealed in part, XII of 1876.	66
1831	V	The Madras Stamp Penalties Regulation, 1831.	Repealed in part, Madras Act II of 1869.	69
	X	The Madras Sale of Minors' Estates Regulation, 1831.	Repealed in part, XII of 1876; VII of 1890.	70
1832	III	The Madras Revenue Malversation (Amendment) Regulation, 1832.	....	71

Part II.

Unrepealed Local Acts of the Governor-General in Council and of the Indian Legislature in force in Madras.

Year.	Number.	Short title.	Repeals and amendments.	Page
1837	XXXVI	The Madras Public Property Malversation Act, 1837.	Repealed in part, XIV of 1870, XVI of 1874.	72
1839	VII	The Madras Rent and Revenue Sales Act, 1839.	Repealed in part, XIV of 1870; XII of 1873; Repealed in part and amended, XII of 1891.	73
	XXIV	The Ganjam and Vizagapatam Act, 1839.	Repealed in part, XIV of 1870; XVI of 1874; XII of 1891; Madras Act I of 1865.	74
*1844	VI	The Madras Inland Customs Act, 1844.	Repealed in part, VI of 1863; VIII of 1868; XI of 1869; XXIV of 1869; XIII of 1871; XVI of 1874; XVIII of 1877; XII of 1891: Amended, Madras Act II of 1893. *See* VII of 1894, s. 8. *See* XIX of 1924.	76
1849	X	The Madras Revenue Commissioner Act, 1849.	....	80
1851	XII	The Madras City Land Revenue Act, 1851.	Repealed in part, Madras Act VI of 1867; Amended, XII of 1891.	81
1854	XXIV	The Malabar War-knives Act, 1854.	Repealed in part, XIV of 1870.	84
1857	VII	The Madras Uncovenanted Officers Act, 1857.	Repealed in part, XVII of 1862; X of 1873; XII of 1873; Madras Act VII of 1914.	85
1858	I	The Madras Compulsory Labour Act, 1858.	Repealed in part, XVI of 1874; Amended, Madras Act IX of 1935.	86
1859	XX	The Moplah Outrages Act, 1859.	Repealed in part, XIV of 1870; Madras Act VII of 1869.	88
	XXIV	The Madras District Police Act, 1859.	Repealed in part, XVII of 1862; XIV of 1870; XVI of 1874; Madras Act I of 1885; Madras Act V of 1896; XVII of 1914, s. 3; Repealed in part and amended, Madras Act III of 1889 (except in the scheduled districts); Madras Act III of 1895; Amended, Madras Act V of 1865; Madras Act III of 1909; IV of 1914; Supplemented, III of 1888.	92
1873	III	The Madras Civil Courts Act, 1873.	Repealed in part, XII of 1873; VII of 1887, s. 6; IX of 1887; XII of 1891. Amended, XIX of 1877; XXI of 1885; IV of 1914; Madras Act III of 1916; Madras Act VI of 1919; Madras Act III of 1925; XIV of 1926; XVIII of 1926; Madras Act II of 1931.	100

PART II—*cont.*

Unrepealed Local Acts of the Governor-General in Council and of the Indian Legislature in force in Madras.

Year.	Number.	Short title.	Repeals and amendments.	Page
1877	XIX	The Madras Civil Courts (Amendment) Act, 1877.	Repealed in part, XII of 1891; Amended, XXI of 1885.	110
1879	XVI	The Transport of Salt Act, 1879.	Repealed in part, XI of 1901, s. 3; Amended, XII of 1891; IV of 1914; XXII of 1925.	111
1881	XVIII	The Central Provinces Land-revenue Act, 1881.	Repealed in part and amended, Act XVI of 1889; Act XII of 1891; Act XII of 1898; Act IV of 1907. Amended, Act XIII of 1908; Regulation I of 1909, s. 3 (2), prov.	114
1882	V	The Indian Easements Act, 1882.	Application extended, VIII of 1891; Amended, XII of 1891; X of 1914.	183
	XXI	The Madras Forest (Validation Act, 1882).	....	207
1883	I	The Central Provinces Local Self-Government Act, 1883, s. 41 (1).	Amended, Act XVI of 1889, s. 41.	208
1884	II	The Madras Partition-deeds (Validation) Act, 1884.	Repealed in part, XII of 1891.	208
1885	XXI	The Madras Civil Courts Act, 1885.	Repealed in part, XVII of 1914.	209
1889	V	The Coroners (Madras) Act, 1889.	Repealed in part, V of 1898; Repealed in part, and amended, XII of 1891; Amended, I of 1903.	210
	XVI	The Central Provinces Land-revenue Act, 1889.	Repealed in part, Act XII of 1891; Act XII of 1898, s. 13. S. 12 virt. rep., Act XIII of 1908, s. 4. Ss. 33, 39 virt. amended, Act XII of 1898, ss. 10, 12.	213
1892	VII	The Madras City Civil Court Act, 1892.	Repealed in part, XVII of 1914, s. 3; Amended, IV of 1914; Madras Acts V of 1916 and I of 1935.	216
1898	XI	The Central Provinces Tenancy Act, 1898.	Amended, Act XXI of 1899; Reg. I of 1909, s. 3 (2) prov.	221
	XII	The Central Provinces Land-revenue Act, 1898.	....	262
1899	XXI	The Central Provinces Tenancy (Amendment) Act, 1899.	....	263
1907	IV	The Repealing and Amending (Rates and Cesses) Act, 1907.	....	264
1908	XIII	The Central Provinces Financial Commissioner's Act, 1908.	Amended, Act IV of 1914 ..	266
1921	VIII	The Hindu Transfers and Bequests (City of Madras) Act, 1921.	Amended, XXI of 1929 ..	267

Part II—*cont.*

Unrepealed Local Acts of the Governor-General in Council and of the Indian Legislature in force in Madras.

Year.	Number.	Short title.	Repeals and amendments.	Page
1925	XXII	The Salt Law Amendment Act.	Amended, XXI of 1929, s. 13.	268
	XXXV	The Madras, Bengal and Bombay Children (Supplementary) Act, 1925.	....	270
1926	XIV	The Madras Civil Courts (Amendment) Act, 1926.	....	271
	XVIII	The Madras Civil Courts (Second Amendment) Act, 1926.	....	271
1927	VI	The Madras Salt (Amendment) Act, 1927.	....	272
1928	XIX	The Madras Salt (Amendment) Act, 1928.	....	272

Part III.

Unrepealed Regulations made under the Government of India Act, 1870. (33 *Vict., Ch.* 3)—*since repealed by the Government of India Act,* 1915 (5 *and* 6, *Geo.* 5, *Ch.* 61)—*in force in Madras.*

Year.	Number.	Short title.	Repeals and amendments.	Page
1909	I	The Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909.	....	273
1912	I	The Laccadive Islands and Minicoy Regulation, 1912.	Amended, Regulation I of 1926.	275
1926	I	The Laccadive Islands and Minicoy (Amendment) Regulation, 1926.	....	283

THE MADRAS CODE

VOLUME I.

PART I.

REGULATIONS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

MADRAS REGULATION III OF 1802.[1]

[THE MADRAS ADMINISTRATION OF ESTATES REGULATION, 1802.]

[1st January, 1802.]

A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adálat established in the several Zilas immediately subject to the Presidency of Fort St. George.

THE following rules are enacted for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adálat established in the several Zilas :—

2 to 6. [*Parties to suits: contents of complaints: procedure in suits.*] *Rep., Act X of 1861.*

7. [*Provisions regarding attendance of witnesses, depositions and exhibits.*] *Rep., Acts X of 1861 and III of 1873.*

---

[1] Short title, "The Madras Administration of Estates Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

Section 1 and the unrepealed part of s. 16 of this Regulation were declared by the Laws Local Extent Act, 1874 (XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. S. 1 and the unrepealed part of s. 16 have been declared by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 723.

The same portions of the Regulation have been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 722. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The same portions of the Regulation are in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

8. [*Commitment of witnesses for perjury.*] *Rep., Act XVII of 1862.*

9 & 10. [*Judgment and execution of decree: judgment-debtor's subsistence-money.*] *Rep., Act X of 1861.*

11. [*Certain decrees to be transmitted to Collector of Zila and Board of Revenue.*] *Rep., Act XII of 1876.*

12 to 15. [*Procedure on default of plaintiff or defendant to appear or plead: service of processes.*] *Rep., Act X of 1861.*

16. [*First clause.—Laws applicable to certain classes of suits.*] *Rep., Act III of 1873.*

Executors to Muhammadans and others whose heirs are not disqualified landholders to take charge of assets and execute trust. Courts not to interfere, except on regular complaint. Procedure on such complaint.

[1] *Second.*—In all cases of a Mussulman, or other person subject to the jurisdiction of the Zila Courts, having at his death left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to * * * * * *[2] any * *[2] officer of Government for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust, or otherwise, when they are to take cognizance of such complaint, in common with all others of a civil nature,[2] * * * * *[3] with respect to which the Judge is to be guided by the law of the parties, * * * * * .[3]

Heirs of intestate or their guardians when not required to apply to Courts for permission to take possession.

Third.—In case of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila Courts dying intestate,[4] but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age, and competent to take the possession and management of the estate, or if under age or incompetent, and

[1] This clause, so far as it applies to Hindus, was repealed by Mad. Reg. V of 1829, s. 2, while so much of it as applies to law-officers has been repealed by Mad. Act V of 1867.

[2] The words "the Judge of the Court of Adálat, or," the word "other" and the words "under the general rule contained in section V, Regulation II, 1802, and proceed thereupon according to the Regulations," were repealed by Act XII of 1876.

[3] The words "taking the opinion of their law-officers upon any legal exception to the executors, as well as upon the provision to be made for the administration of the estate, in the event of the appointed executor being set aside, and generally upon all points of law that may occur," and the words and figures "as expounded by his law-officers, subject to any modifications enacted by the Governor in Council in the form prescribed by Regulation I, 1802," were repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (2) and the Third Schedule.

[4] As to extended application of this clause and also of the succeeding clauses, *see* Mad. Reg. V of 1829, s. 3.

not under the superintendence of the Court of Wards, his guardian or nearest of kin, who by special appointment, or by the law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased, as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, * * *.[1]

More heirs than one to intestate's estate may appoint common manager and take possession. When right of succession is disputed, security to be taken from party in possession. Failing such security, claimants giving it to be placed in possession.

Fourth.—If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir; but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession, for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given, within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants, who may be able to give such security; declaring, at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

When Judge may appoint administrator to manage intestate's estate.

Fifth.—In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding clause, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any enquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Administration when to cease.

[1] The words "when they are to proceed thereupon according to the general regulations" were repealed by Act XII of 1876.

Security to be taken from administrators appointed under this section. How their allowance is to be fixed.

Sixth.—In all instances of an administrator being appointed under this section, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust, in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadar Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon after deducting the expenses of management.

Procedure in cases of persons dying intestate, leaving unclaimed personal property.

Seventh.—The Judges of the Zila Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement, in the current language of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose; such advertisment to be published on the spot where the property was found, at the Adálat, kachari of the zila and, if ascertainable, at the dwelling-place of the deceased, . . .[1] after which, should any person attend, and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property, and report of the circumstances of the case, is to be transmitted to the Governor in Council for his orders.

17 to 20. [*Rules as to reference of questions of fact and law: local investigations of amins: costs payable by plaintiff: order of trial of suits and cause-list.*] *Rep., Act X of 1861.*

21. [*Language and character of processes, and payment of peons.*] *Rep., Act XVI of 1874.*

22 to 26. [*Power of Court to fine for certain contempts of authority: procedure in cases when land proprietors, Government farmers or other persons resist processes.*] *Rep., Mad. Act II of 1869.*

27 to 29. [*Contents of decrees of Court: form of security bond for attendance of defendants.*] *Rep., Act X of 1861.*

---

[1] The words "or, if the deceased were an European, in the Madras Gazette," were repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (*2*) and the Third Schedule.

MADRAS REGULATION XIX OF 1802.[1]

[THE INDIAN CIVIL SERVICE (MADRAS) LOANS PROHIBITION REGULATION, 1802.]

[*1st January, 1802.*]

A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land or dependent Taluqdars or Farmers of land, holding farms immediately of Government, or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties . . . .[2]

[*Preamble.*] *Rep. by Mad. Act II of 1869.*

[3] **2.** The Judges and Magistrates of the Zila Courts, . . .[4] or other officers, being covenanted servants of the Company, and the Collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdâr, or under-farmer, or raiyat, or their sureties; and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any Court of Judicature.

Covenanted servants, etc., forbidden to lend money to proprietors or farmers of land, etc.

3 to 6. [*Restrictions on holding of lands by Europeans.*] *Rep., Mad. Act II of 1869.*

---

[1] Short title, " The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802 "—*see* the Repealing and Amending Act, 1901 (XI of 1901). The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] The remaining portion of the title, which had become obsolete, was repealed by Act XI of 1901, s. 3 (*2*) and the Third Schedule.

[3] This section was declared by the Laws Local Extent Act, 1874 (XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

It has further been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts of Ganjam and Vizagapatam—*see* Notification No. 285, *Fort St. George Gazette*, 1898, Pt. I, p. 666.

[4] Words relating to Registrars and their Assistants, and to Judges of Provincial Courts of Appeal and Courts of Circuit were repealed by Mad. Act II of 1869.

MADRAS REGULATION XXV OF 1802.[1]

[THE MADRAS PERMANENT SETTLEMENT REGULATION, 1802.]

[*13th July, 1802.*]

[2] A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under a permanent Assessment of the Land-revenue in the British territories subject to the Presidency of Fort St. George.

WHEREAS it is known to the zamíndárs, mírásídárs, raiyats and cultivators of land in the territories subject to the Government of Fort St. George, that from the earliest until the present period of time the public assessment of the land-revenue has never been fixed; but that, according to the practice of Asiatic Governments, the assessment of the land-revenue has fluctuated without any fixed principles for the determination of the amount, and without any security to the zamíndárs or other persons for the continuance of a moderate land-tax; that, on the contrary, frequent inquiries have been instituted by the ruling Power, whether Hindu or Muhammadan, for the purpose of augmenting the assessment of the land-revenue; that it has been customary to regulate such augmentations by the inquiries and opinions of the local officers appointed by the ruling Power for the time being; and that in the attainment of an increased revenue on such foundations, it has been usual for the Government to deprive the zamíndárs, and to appoint persons on its own behalf to the management of the zamíndárís, thereby reserving to the ruling Power the implied right and the actual exercise of the proprietary possession of all lands whatever;

---

[1] Short title, "The Madras Permanent Settlement Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

It has further been declared to be in force in the Scheduled Districts of Ganjam and Vizagapatam, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874)—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette*, 1898, Pt. I, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] *See* Mad. Reg. IV of 1822, s. 2.

and whereas it is obvious to the said zamíndárs, mírásídárs, raiyats and cultivators of land that such a mode of administration must be injurious to the permanent prosperity of the country by obstructing the progress of agriculture, population and wealth, and destructive of the comfort of individual persons by diminishing the security of personal freedom and of private property; wherefore, the British Government, impressed with a deep sense of the injuries arising to the State and to its subjects from the operation of such principles, has resolved to remove from its administration so fruitful a source of uncertainty and disquietude, to grant to zamíndárs and other landholders, their heirs and successors, a permanent property in their land in all time to come, and to fix for ever a moderate assessment of public revenue on such lands, the amount of which shall never be liable to be increased under any circumstances.

Assessment on all lands liable to revenue.

Proprietary right vested in zamindars.

2. In conformity to these principles, an assessment shall be fixed on all lands liable to pay revenue to the Government; and, in consequence of such assessment, the proprietary right of the soil shall become vested in the zamíndárs or other proprietors of land, and in their heirs and lawful successors for ever.

Instruments to be granted to zamindars. Corresponding kabuliyats.

3. Where the conditions of the permanent assessment of the revenue may have been adjusted, a sanad-i-milkíyat-i-istimrar, or deed of permanent property, shall be granted on the part of the British Government to all persons being, or constituted to be zamíndárs or proprietors of land; and each zamíndár or proprietor of land shall execute and deliver to the Collector of the district a corresponding kabúliyat.

The said sanad and kabúliyat shall contain the conditions and articles of tenure by which the lands shall be held.

Cases of disputed assessment.

In all cases of disputed assessment reference shall be had to the sanads and kabúliyats, and judgment shall be given by the Courts of Judicature in conformity to the conditions under which the agreement may have been formed in each particular case.

Articles of revenue which Government reserves right of abolishing or continuing. Land-tax to be permanently fixed exclusive of these articles.

4. The Government having reserved to itself the entire exercise of its discretion in continuing or abolishing, temporarily or permanently, the articles of revenue included, according to the custom and practice of the country, under the several heads of salt and saltpetre—of the sayar, or duties by sea or land—of the ábkárí, or tax on the sale of spirituous liquors and intoxicating drugs—of the excise on articles of consumption—of all taxes personal and professional, as well as those derived from markets, fairs or bazars—of lakhiraj lands (or lands exempt from the payment of public revenue), and of all other lands paying only favourable quit-rents—the

permanent assessment of the land-tax shall be made exclusively of the said articles now recited.

Police expenses to be borne by Government. Lands appropriated to this purpose to be resumed.

5. The Government having charged itself generally with the maintenance and support of such establishments as may be requisite in the several provinces, cities and towns for the better keeping of the police, no lands shall be considered, as heretofore, to be holden on the condition of performing police duties, unless the same shall be specially provided for in the sanad-i-milkíyat-i-istimrar: and all lands or rasms heretofore appointed to the support of police establishments shall be disposed of in such manner as the Government may think fit.

Amount of assessment to be regularly paid. No remission of revenue to be allowed. Landholder's property answerable for consequences of failure.

6. The landholders shall regularly pay in all seasons, in the current coin of their respective provinces, the amount of the permanent assessment fixed on their lands; the remission of revenue which has occasionally been granted according to the custom of the country on account of drought, inundation or other calamity of the season shall cease and never be revived; and where landholders may fail to discharge their pecuniary engagements their property shall be answerable for the consequence of such failure.

Their personal property to be attached in the first instance.

7. Where such failure may occur, the personal property of landholders shall in the first instance be attached, and ultimately their lands shall be liable to be sold and transferred from them for ever, if necessary, for the payment of the public revenue. [1]

Proprietors of land may transfer proprietary right in whole or part of their zamíndárís.

Restrictions under which such transfer is to be made.

8. Proprietors of land shall be at free liberty to transfer without the previous consent of the Government, or of any other authority, to whomever they may think proper, by sale, gift or otherwise, their proprietary right the whole or in any part of their zamíndárís; such transfers of land shall be valid and shall be respected by the Courts of Judicature and by the officers of Government; provided they shall not be repugnant to the Muhammadan or to the Hindu laws, or to the regulations of the British Government. But unless such sale, gift or transfer shall have been regularly registered at the office of the Collector, and unless the public assessment shall have been previously determined and fixed on such separated portions of land by the Collector, such sale, gift or transfer shall be of no legal force or effect, nor shall such transaction exempt a zamíndár from the payment of any part of the public land-tax assessed on the entire zamíndárí previously to such transfer, but the whole zamíndárí shall continue to be answerable for the total land-tax, in the same manner as if no such transaction had occurred.

---

[1] The estates of minors are exempted from sale for arrears of revenue by Mad. Reg. X of 1831, s. 2, cl. 1.

Accounts to be furnished in forming part of zamíndárí into separate estate.

9. Where a part of a zamíndárí may be sold for the liquidation of arrear of the public assessment, or for the satisfaction of a decree of a Court of Judicature, or where part of a zamíndárí may be transferred by sale, gift or otherwise, the zamíndár or landholder shall furnish to the Collector true and correct accounts of the entire zamíndárí, and of the portion of the zamíndárí about to be separated, for a period of time not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon.

Principle regulating assessment on part to be separated.

The assessment to be fixed in this case on the separated lands shall always bear the same proportion to the actual value of the separated portion as the total permanent jamá on the zamíndárí bears to the actual value of the whole zamíndárí.

10. [*No separate estate to be created with a less jamá than 500 pagodas.*] *Rep., Mad. Act II of 1869.*

Number of karnams to be kept up: to be appointed by zamíndárs.

[1] **11.** The zamíndárs or landholders shall support the regular and established number of karnams in the several villages of their respective zamíndárís.

The karnams shall be appointed from time to time by the zamíndárs, and shall obey all legal orders issued by them; but the karnams shall not be liable to be removed from their offices, except by the sentence of a Court of Judicature.

Procedure against karnams in cases of complaint.

Where a zamíndár, or his under-farmers, tenants or raiyats, may have cause of complaint against a karnam for breach of his duty, such zamíndár shall be free to institute a suit in the Adálat of the zila for the purpose of bringing such karnam to trial and punishment; but, where a zamíndár may deprive a karnam of his office without such previous regular process, the zamíndár shall be liable to make such satisfaction for the injury as the Adálat of the zila may decree.

Appointment of successor to karnam dismissed from office.

Where a karnam may be dismissed from his office by the sentence of a Court of Judicature, the zamíndár shall in the first instance select a successor from the family of the last incumbent, provided any member of that family be found capable of performing the duty of karnam; but where no member of the family may be capable of discharging the duty of karnam, in that case the zamíndár shall exercise his discretion in the appointment of a proper person. The name of the person appointed to succeed to the office of karnam shall be reported to the Collector of the zila by the zamíndár.

No part of an estate permanently assessed can be exempted from bearing its portion of public tax.

12. It shall not be competent to proprietors of land to appropriate any part of a landed estate permanently assessed, to religious or charitable or to any other purposes by which it may be intended to exempt such lands from bearing their portion of the public tax; nor shall it be competent to a proprietor of land to resume lands, or to fix a new assessment on lands

---

[1] This section ceases to be in force in estates where the Madras Proprietary Estates' Village-service Act, 1894 (Mad. Act II of 1894), is extended to the office of village-accountant—*see* s. 3 of that Act.

Lands allotted to religious purposes.

which may be allotted (at the time when such proprietor may become possessed of the estate in which lands are situated) to religious or to charitable purposes under the denominations of Devasthan or Devadáyam, of Brahmádáyám or Agraháram, of Yaumiá, Jívadán or Madad Ma'ásh, of Pírán, Fakírán, or any other description of exempted lands described under the general term of lakhiraj unless the consent of the Government shall have been previously obtained for that purpose.

Where consent is obtained, assessment on such lands to be paid as fixed by Collector.

13. Where the consent of the Government may have been obtained to a particular appropriation of the lands above described, the proprietor of the estate in which such lands are situated shall pay such assessment of revenue as may be fixed on the said lands by the Collector of the zila.

Zamíndárs to engage with raiyats, to grant pattas, and to give receipts for rents.

14. Zamíndárs or landholders shall enter into engagements with their raiyats for a rent, either in money or in kind, and shall, within a reasonable period of time, grant to each raiyat a patta or kaul, defining the amount to be paid by him, and explaining every condition of the engagement. And the said zamíndárs or landholders shall grant regular receipts to the raiyats for discharges in money or in kind made by the raiyats on account of the zamíndárs. Where a zamíndár after the expiration of a reasonable period of time from the execution of his kabúliyat may neglect or refuse to comply with the demand of his under-farmers or raiyats for the pattas or receipts above mentioned, such zamíndár shall be liable to be sued in the Adálat of the zila, and shall pay such damages as may be decreed by the Adálat to the complainant.

Zamíndárs refusing to give pattas or receipts, liable to be sued.

Zamíndárs to assist in keeping the peace.

15. Zamíndárs shall aid and assist the officers of Government in apprehending and securing offenders of all descriptions, and they shall inquire and give notice to the Magistrates of robbers or other disturbers of the public peace who may be found, or who may seek refuge, in their zamíndárís.

MADRAS REGULATION XXVI OF 1802. [1]

[THE MADRAS LAND REGISTRATION REGULATION, 1802.]

[*18th July, 1802.*]

A Regulation for governing the [2] [registration of landed estates paying revenue to the Government] in the British Territories subject to the Presidency of Fort St. George.

* * * * [3]

WHEREAS it is expedient that public means should be established for the purpose of ascertaining the public revenue on [4] [landed estates paying revenue to the Government] as well as for prescribing rules for the transfer of all lands; wherefore the following rules have been passed for that purpose :—

Collectors to keep registers of revenue-paying lands and of transfers of lands.

2. The Collectors of zilas shall keep public registers, according to the forms prescribed by the Board of Revenue, for the purpose of registering the landed property paying revenue to Government within their respective zilas and shall enter all transfers of land from one proprietor to another, which said registers shall be open at all times to the inspection of persons concerned in seeing them.

Unregistered transfers of land not valid.

3. Transfers of land made by individual persons, without being so registered in the registers of the Collectors, shall not be valid in Courts of Adálat; and such transfers of land, being

---

[1] Short title, " The Madras Land Registration Regulation, 1802 "—*see* the Repealing and Amending Act, 1901 (XI of 1901).

Sections 1, 2 and 3 only of this Regulation were declared by the Laws Local Extent Act, 1874 (XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

It has been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts of Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1898, Pt. I, p. 871. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam taluk of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation is not in force in the Nugur taluk.

[2] The words in square brackets were substituted for the words " sale and sub-division of Málguzárí lands " by the Repealing and Amending Act, 1901 (XI of 1901)—Second Schedule, Part I.

[3] The first three lines of the preamble were repealed by Act XI of 1901—Second Schedule, Part I.

[4] The words in square brackets were substituted for the words " such lands " by the Repealing and Amending Act, 1901 (XI of 1901) —Second Schedule, Part I.

unregistered, shall not exempt the persons in whose names the entire estates are registered from paying the revenue due to Government from such lands.

4 to 21. [*Rules as to sale of lands paying Government revenue and assessment of land-revenue on divided lands : prohibition of purchase of lands by Europeans or by native officers or private servants of Collectors.*] *Rep., Mad. Act II of 1864, s. 65.*

MADRAS REGULATION XXIX OF 1802.[1]

[THE MADRAS KARNAMS REGULATION, 1802.]

[*13th July, 1802.*]

A Regulation for establishing the Office of Karnam, and defining the Duties of the said Office, in the British Territories subject to the Presidency of Fort St. George.

[2] * * * * The office of karnam being still of great importance to the preservation of the rights and property of

---

[1] Short title, "The Madras Karnams Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam taluk and the Muttas of Dutacharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation is not in force in the Nugur taluk. It was declared by s. 7, cl. 1, of Mad. Reg. II of 1806, that the provisions of ss. 1 to 10 and 13 to 16 of this Regulation should not extend to districts of which the revenue was not permanently settled, and rules for the duties of karnams in such districts were enacted in s. 7, cl. 2, of the Reg. of 1806, in addition to those prescribed by ss. 11, 12, 17 and 18 of Mad. Reg. XXIX of 1802. Further duties were assigned to karnams by Mad. Reg. XI of 1816.

Mad. Reg. XXIX of 1802 ceases to be in force in estates where the Madras Proprietary Estates' Village-service Act, 1894 (Mad. Act II of 1894), is extended to the office of village-accountant—*see* s. 3 of that Act.

On and after the commencement of Mad. Act III of 1895 (which, however, does not apply to Scheduled Districts), no portion of this Regulation shall continue to apply to any local area which is not a permanently settled proprietary estate—*see* s. 2 (*1*) of the Act.

[2] The first portion of the preamble was repealed by Act XII of 1876.

the people, it is expedient to provide for the continuance of that office on an efficient establishment, for the purpose of facilitating the decision of suits in the Courts of Judicature, of preventing the diminution of the fixed revenue of the Government, and of securing individual persons from injustice, by enabling the public officers of Government and the Courts of Judicature to procure authentic information and accounts. In conformity, therefore, to the ancient usages of the country, the following rules have been enacted for the establishment of the office of Karnam.

2. An office of record, under a karnam, shall be established in each village of a district where the land-revenue may have been permanently assessed on the lands; provided the revenues arising from such village, inclusively of charges, may amount to the annual sum of four hundred pagodas or upwards. But in villages where the annual revenue may be less than the said sum of four hundred pagodas, it shall be competent for one karnam to superintend and discharge the duties of the karnam's office in two or more villages. **Establishment of office of karnam.**

3. The nomination of persons to the office of karnam shall be in the actual proprietors of land. **Nomination to office.**

4. [*Appointment of office.*] *Rep. Act XII of 1876.*

5. Karnams shall not be dismissed from their offices except by the sentence of a Court of Judicature. **Karnams how dismissible.**

6. Where vacancies may occur in the office of karnam, either by death or dismission, the landholder concerned shall report the event to the Collector, and shall within thirty days nominate a proper person to fill the vacancy, acquainting the Collector with the name of such person. **Vacancies how supplied.**

7. In filling vacancies in the office of the karnam, the heirs of the preceding karnam shall be chosen by the landholders concerned, except in cases of incapacity, on proof of which before the Judge of the zila the said landholders shall be free to exercise their discretion in the nomination of persons to fill vacancies. **Office of karnam hereditary. Exception.**

8. Proprietors of land shall deposit in the Adálat of the zila, in the head kacharí of the Collector, and in the principal kacharí of each zamíndárí or estate authentic lists containing the names of the karnams on their respective estates, and the names of the villages of which the said karnams may have been appointed to keep the accounts. **List of karnams and of villages under each.**

9. It shall be competent for the Board of Revenue at the Presidency to authorize, through the channel of the Collectors, the proprietors of land to reduce the number of karnams in all cases where such reductions may appear to be advisable to the said Board. **Board of Revenue may reduce number of karnams.**

Penalty for neglecting to appoint karnams.

10. Proprietors of land neglecting to appoint karnams shall be liable to fine for such neglect, at the discretion of the Adálat of the zila.

Karnams to keep registers of lands in each village.

11. *First.*—Karnams duly appointed to their offices shall keep complete registers of the extent of the lands in each village, specifying the boundaries and landmarks, and showing their appropriation: namely, arable, cultivated and uncultivated, pasture, occupied for houses, gardens, rivers, tanks, springs or wells, waste in hills, jungle or rocks.

Registers to specify lands exempt from payment of revenue by established usage;

Second.—The said registers shall specify the extent and description of land in each village exempt from paying revenue to Government at the time when the permanent assessment was fixed, the purposes to which the exempted lands are appropriated, and the names of the holders of such lands.

and lands exempt from payment of revenue by grants or sanads.

Third.—The said registers shall specify the lands in each village exempted by grants or sanads from paying revenue to Government, the purposes for which such lands were granted, the condition of the grant, and the names of the holders.

Karnams to report death of incumbents on such lands.

Fourth.—Karnams shall report to the proprietors of lands the death of all incumbents on lands exempted from the payment of revenue to Government.

Their duty as to crop.

Fifth.—Karnams shall be present at the estimation of the crop, at the beating out, and at the measuring of the grain.

Gross produce of all lands, with particulars as to its division, to be registered.

Sixth.—Karnams shall keep true accounts of the gross produce of all lands, whether paying revenue to Government or not; where the produce of such lands may be shared between the proprietors and the cultivators, karnams, shall also enter in their registers the quantity of grain so divided, as well as the rates of division.

Amount of fees and meras paid in a village to be registered.

Seventh.—Karnams shall enter in their registers the rates and amount of all fees and méras [1] appropriated to the officers and servants of the villages, specifying whether such fees or méras are payable from the gross produce of the entire lands, from the proprietor's share or from the raiyat's share.

Karnams to keep registers of lands paying money-rent;

Eighth.—Where lands may be liable to pay money-rents, karnams shall keep registers of the extent of the land cultivated, and of the rates and amount of the money-rents.

to register lands cultivated in gardens;

Ninth.—Karnams shall keep registers of the land cultivated in gardens, and of the rates and amount of the division of the produce of such lands, when the produce may be divided in kind.

---

[1] *Méra* means, according to Wilson, "a portion of the crop given as a perquisite to the holders of a proprietary right in the village-lands or to the hereditary village-officers and servants, out of the common stock from the threshing-floor."

Tenth.—Karnams shall keep registers of the quit-rent and ready-money payments collected in each village. to register quit-rents and ready-money payments;

Eleventh.—Karnams shall keep monthly registers of the price of all kinds of grain. and price current of grain;

Twelfth.—Karnams shall keep registers of strangers passing or repassing as reported to him by the village-watcher, and such registers shall at all times be open to the inspection of the officers of police. and passengers reported by village-watcher.

Thirteenth.—Karnams shall keep the accounts which are to exhibit the actual revenue and charges of the village, and the records of their offices entire; and shall not carry such accounts or records out of their respective villages, unless required to do so by competent authority. Karnams secreting the accounts or records of their offices, or transporting them beyond their respective villages, except by due authority, shall be liable to fine and imprisonment until the accounts and records may be produced; but proprietors or farmers of lands shall at all times have free access to the accounts and records, with power to take copies of them. Rules for keeping entire accounts and records of office of karnam.

12. Karnams shall produce, whenever required by the proprietor or farmer of the lands, by the Collector or by the Adálat of the zila, the records and accounts relating to the lands, produce, revenue and charges of their villages respectively. Karnams to produce records when required by proprietor, Collector or Adalat.

13. Collectors shall not demand from karnams their accounts or records for any other purpose than that of assessing the public revenue upon the portions of estates which it may be necessary to divide, in consequence of attachment for arrears of revenue, or in pursuance of a decree of a Court of Judicature, or for the accommodation of the joint proprietors of lands; provided that this section shall not be construed to preclude Collectors or other public officers from demanding from karnams the information required for the due administration of the revenues of such lands as may escheat to Government or remain khás after attachment for arrears of revenue. When Collectors or other public officers may demand karnams' accounts or records.

14. On complaints by the proprietors of land, the Adálats of the several zilas shall have authority to make orders to prohibit the Collectors respectively from demanding the attendance of the karnams, the accounts or information; and to levy fines from such Collectors for persisting to demand their attendance, accounts or information for any other purposes than those authorized by this Regulation. Power to prohibit Collectors, in certain cases, from making such demands.

15. Where Collectors or Courts of Judicature may have occasion to require the attendance of a karnam, a notice shall be delivered to the said karnam specifying the time and place of attendance, the nature of the accounts required and the persons before whom such accounts shall be examined. Forms to be observed in requiring attendance of karnams.

Punishment for refusal or wilful delay on part of karnams.

16. Where karnams may refuse to comply, or may unreasonably delay to comply, with such notice duly communicated, it shall be competent for the Adálat to punish such karnams by fine or imprisonment until the accounts or information required be produced.

Karnams compellable to swear to accounts.

17. Karnams shall be compellable to swear to the truth of such accounts or information as they may furnish before a Court of Judicature; and it shall be competent for the Court to grant a commission for the purpose of receiving the depositions of such karnams as it may be necessary to examine at a distance from the Court; provided that the said commission shall contain the name of each karnam to be examined on oath.

Penalty for furnishing false accounts.

18. Where karnams may deliver false or fabricated or mutilated accounts or information, after having been duly sworn, the Judge of the Adálat shall commit such karnams to be tried for the crime of perjury * * *.[1]

Proprietors of land conniving thereat how punishable.

19. Proprietors of land or other persons associating themselves with karnams for the purpose of producing or procuring false or fabricated or mutilated accounts or information shall also be committed by the Judge of the Adálat for trial * * * [1] for subornation of perjury.

MADRAS REGULATION I of 1803.[2]

[The Madras Board of Revenue Regulation, 1803.]

[*1st January 1803.*]

A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.

Whereas it has hitherto been usual for the Board of Revenue to exercise judicial authority in the determination of certain cases of a civil nature appealed from the decision of the Collectors, who were entrusted with the administration of the revenues and the distribution of justice in their respective districts; and whereas Courts of Judicature have been established for the purpose of administering justice in all

---

[1] The words " before the Court of Circuit " were repealed by Act XII of 1876.

[2] Short title, " The Madras Board of Revenue Regulation, 1803 " —*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. The Regulation has been declared not to apply to the East Godavari Agency by notification under sub-section (2) of s. 52-A of the Government of India Act, 1919—*see Fort St. George Gazette*, 1930, Pt. I, p. 1392. As to arrears of revenue recoverable under Mad. Act. II of 1864, this Regulation is inoperative —*see* s. 62 of that Act.

cases, civil and criminal, it is expedient that the judicial authority heretofore exercised by the Board of Revenue should be formally abrogated in those districts where Zila Courts have been established; and whereas it is important to the security of the persons and property of those for the protection of whom the said Courts have been established, that the powers and authorities entrusted to the said Board of Revenue in respect of the executive administration of the revenues, should be defined and published; wherefore the following Regulations have been passed by the Governor in Council.

2 & 3. [*Oath to be taken by members of Board: consequences of violation thereof.*] *Rep., Act X of 1873.*

Duties of Board of Revenue.

4. The duties of the Board of Revenue have been, and hereby are declared to be, the general superintendence of the revenues from whatever source they may arise, and the recommendation of such propositions to the Governor in Council as in their judgment may be calculated to augment or improve those revenues.

Superintendence and control of persons employed in executive administration of revenues.

5. The Board of Revenue have had, and are hereby declared to have authority to superintend and control all persons employed in the executive administration of the public revenue, all zamíndárs or proprietors of land paying revenue, and all farmers, securities, raiyats or other persons concerned in, or responsible for, any part of the revenue of Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

Meetings of Board.

6. The Board of Revenue shall assemble two days, at the least, in every week for the despatch of business.

7. [*Quorum.*] *Rep., Mad. Act I of 1894, s. 1.*

Board to use official seal. Inscription thereof.

8. The Board of Revenue shall use, in the transaction of official business a circular seal two inches in diameter, bearing in the English and Persian languages this inscription: "The seal of the Board of Revenue"; and no other seal shall be used by the Board of Revenue.

Board's proceedings to be reported to Government as often as required.

9. The Board of Revenue shall annually (or as often as they may be required) lay before the Governor in Council a general report of their proceedings, to be drawn out summarily, and under the distinct heads of districts, with reference to the dates of the consultations in which each subject is contained, which subject shall be respectively continued in each successive report from the date of the report preceding.

To keep three sets of proceedings.

10. The Board of Revenue shall keep three separate sets of their proceedings, one set for the broken periods to accompany the general report above ordered; a second set to be sent to England complete by the first despatch after the expiration of each year, and a third set to be kept in the office. The Board of Revenue shall prepare and annex a copious index to the second and third sets.

Acknowledgment of receipt of letters from Government.

11. The Board of Revenue shall invariably acknowledge the receipt of all letters from the Governor in Council, reciting in abstract the substance of the letter so acknowledged, and the steps they have taken in consequence.

Records to be preserved complete.

12. The Board of Revenue shall be careful to preserve their records complete, and shall transmit to the Governor in Council. with the whole set of their proceedings, a list of all records, and of all papers not entered on the records.

Records not to be copied or removed from office.

13. The Members of the Board of Revenue shall not have copies of any part of the records, nor remove any of the records from the office of the Board of Revenue. Members of the Board of Revenue wishing to refer to the records shall cause such records to be brought into the meeting-room of the Board of Revenue, and shall peruse them there.

Reference to Government records.

14. When the Board of Revenue may have occasion to refer to the records of Government, they shall apply for such records to the Governor in Council.

Native paper to be accompanied with translations.

15. The Board of Revenue shall accompany all papers in the Native languages which they may transmit to Government with translations in English.

All propositions to be submitted through president.

16. All propositions or suggestions intended by individual members for the consideration of the Board shall be submitted through the channel of the president.

No new propositions discussed till previous question disposed of.

17. Where new propositions may arise during the consideration of a question, such proposition shall not be discussed until the previous question shall have been disposed of.

Majority to decide.

18. Questions at the Board of Revenue shall be determined by a majority, and the resolutions of the majority shall be the resolution of the Board, and shall be carried into execution accordingly.

Opinions of members how taken.

19. In deliberation, where questions may be put to the vote, the opinion of the junior member shall be first recorded, and then the opinions of the other members, according to their rank upwards.

President to have casting vote.

20. Where a difference of opinion may happen, and where votes may be equally divided, the president shall have the casting vote; but the proceedings on any question shall, at the motion of any member, be referred to the Governor in Council.

Dissents from majority when recorded.

21. A member dissenting from the majority of the Board may record his dissent at the time, or at a future meeting; but no minute shall be recorded on the proceedings of the day unless delivered in before the adjournment of the Board, nor shall any alteration be made in opinions once recorded without the consent of all the members of the Board.

22. The Board of Revenue shall accompany all references made to the Governor in Council, of their proceedings on matters requiring the decision of Government, with a letter stating summarily the nature of the subject submitted, and with distinct opinions and recommendations on each subject for the consideration and decision of the Governor in Council. **Rule in referring matters for decision of Government.**

23. In cases where it may be necessary for the despatch of business, the Board of Revenue may commit the charge of any specific duty to a particular member, but in no other case shall the members individually exercise any authority. **Power to entrust specific duties to particular members.**

24. The president of the Board of Revenue shall have authority to appoint and to change the days of meeting, to summon extra meetings of the members, and to postpone the regular meetings (provided, nevertheless, that two meetings be always held in one week), and to adjourn the Board at such hour as he may deem expedient. **Powers of president with respect to meetings.**

25. The president, during the intervals of the meetings of the Board, may issue, of his own authority, such occasional or subsidiary orders as shall, in his opinion, be necessary for carrying into execution any existing resolution of the Board; to summon any person to attend the next meeting; and to issue orders to prepare materials for the consideration of the Board. **Orders he may issue during intervals of meeting.**

26. The president shall regulate and prescribe the selection and arrangement of the business to be brought before the Board at each meeting. **Selection of business.**

27. The president shall propose resolutions on all papers read for the consideration of the Board, and may state specific questions for the opinion of the members on the business before the Board. **All resolutions proposed by president.**

28. The president shall have authority in all cases of emergency, while no Board may be sitting, to decide questions requiring an immediate decision, and to issue orders on all references requiring an immediate reply. **His powers in cases of emergency.**

29. [*Provision for judicial investigations where there is no Zila Court.*] *Rep., Mad. Reg. II of 1806.*

30. The president shall have authority to require copies of any records, or to have the records themselves, sent to him, for his perusal. **May have copies of any records, or records themselves.**

31. The president shall have authority to call on Collectors or Assistant Collectors for papers, accounts, or for any information he may require on the revenues of the district under such Collector or Assistant Collector. **President may call on Collectors for accounts.**

32. Whatever authority is hereby declared to be vested in the president shall be vested in the acting president for the time being; and in case of the absence of the president the senior member present shall preside, and shall be vested with all the powers of the president. **Senior member to preside in absence of president.**

Board responsible for discharge of duties of subordinate officers.

33. The Board of Revenue shall be responsible that the executive officers employed under them discharge the duties of their respective stations with assiduity, and shall require them to pay a ready and implicit obedience to all orders and regulations, and shall punish neglect in the subordinate officers of revenue, at their discretion, according to the powers vested in them for that purpose.

34. [*Board authorized to summon Collectors, etc., to the Presidency, and to fine them.*] *Rep., Mad. Reg. V of 1828, s. 4.*

Settlement of revenues when made.

35. The Board of Revenue shall be careful that the settlement of the revenues shall be made at as early a period of time after the commencement of the Fasli year as may be practicable, and shall report any delay in the completion of the settlement in the subordinate officers under them to the Governor in Council.

Settlements to be submitted to Government, and not to be valid till confirmed.

36. The Board of Revenue shall submit, as soon as may be practicable to the consideration of the Governor in Council, all settlements of the public revenue, in cases where the revenue may not have been permanently fixed; and such settlements shall not be considered to be valid until confirmed by the authority of the Governor in Council.

Board to ascertain grounds of temporary settlements to prevent detriment to revenue through negligence; to guard against excess of zeal; to be careful that revenues are realized.

37. In districts where the revenue has not been permanently fixed, it shall be the duty of the Board of Revenue to investigate and ascertain the grounds of the temporary settlements effected by the Collectors, to compare the resources of the provinces with the revenue derived from them; to prevent by early and constant vigilance, the impairment of the public revenue through the negligence or ignorance of the inferior officers; and to guard against encroachments on the rights of the people, or on the permanent sources of prosperity, which may ensue from an excess of zeal on the part of the Revenue officers.

38. The Board of Revenue shall be careful that the revenues are realized according to the stipulated periods of payments.

39. [*Board to investigate charges against Collectors and their officers, where no Zila Court exists.*] *Rep., Mad. Reg. II of 1806.*

Members of Board not to trade or be engaged in money transactions with Natives concerned in revenues.

40. The members of the Board of Revenue shall not be concerned, directly or indirectly, in trade or commerce, or in houses of agency, or be concerned in the direction or management of banks, or in transactions for borrowing or lending money with Native officers under the Revenue Department, or with the zamíndárs, proprietors of land, renters or other persons responsible for the revenue.

41. [*Farming of lands to, and taking of security from, Europeans prohibited.*] *Rep., Mad. Act II of 1869.*

42. The Board of Revenue shall not grant or confirm grants or shrotriyams maqtas, fixed rents, inam or free-gift lands, or confirm the succession of persons to such lands, without the authority of the Governor in Council. **Board not to make or to confirm grants of land.**

43. [*The Board not to continue pensions without authority.*] *Rep., Act XXIII of 1871.*

44 to 47. [*Judicial powers of Board of Revenue in districts where no Zila Courts were established.*] *Rep., Mad. Reg. II of 1806.*

48. The Board of Revenue shall provide that on the death, resignation or removal of Collectors care be taken of the public money and records by the successors to such Collectors, or by their Assistants. The Board of Revenue shall not permit persons resigning or removed from their station to depart until notification of their having delivered over charge of such money and records to their successors shall have been received. **Rules to be observed by Board on death, etc., of Collectors.**

49. Where the Board of Revenue may consider the deputation of a member of their Board, or of any other person, necessary for purposes connected with the administration of the revenue, they shall report such necessity to the Governor in Council, and wait the orders of the Governor in Council previously to deputation. **Procedure where deputation of member, or any other person, may be necessary.**

50. The Board of Revenue shall nevertheless have authority to order Assistant Collectors to be deputed on any service they may deem expedient, within the limits of the collectorship to which such Assistant Collector may be attached, but shall not depute such assistants into districts to which they are not attached without the previous authority of the Governor in Council. **Deputation of Assistant Collector on service within limits of his collectorship.**

51. The Board of Revenue shall recommend to the Governor in Council disbursements of money for takkávi, for repairs, or for improvements in agriculture, where they shall be of opinion that the disbursement of such money will be beneficial to the public revenue. **Disbursements for takkavi.**

52. The Board of Revenue shall require in the executive officers under their authority an attention to the principles of economy in the disbursement of the public money, and shall require the production of authentic and satisfactory vouchers for all disbursements made in repairs and in improvements. **Board to require economy and production of vouchers.**

53. The Board of Revenue shall require satisfactory reasons and explanations in support of any increase of expense applied for previously to referring such increase for sanction to the Governor in Council, and shall at all times submit their opinions on the amount of the increase of disbursements required to be made. **Applications for increase of expense to be explained.**

Mua'in-zabitas to be annually revised by Board, and not to be confirmed without authority.

54. The Board of Revenue shall annually revise the mua'in-zabitas of the Collectors, and shall submit such mua'in-zabitas for the confirmation of the Governor in Council. It shall not be competent for the Board of Revenue to confirm the establishments of Collectors without authority from the Governor in Council being first had and obtained.

Procedure where remissions may be necessary.

55. Where the Board of Revenue may consider a remission of the amount of an existing settlement to be requisite, or a remission of balances to be conducive to the public good, they shall submit the circumstances of the case, and the amount of the remission, to the consideration of the Governor in Council.

Power to suspend rigorous collection of revenue.

56. The Board of Revenue shall suspend the rigorous collection of the revenues according to the stipulated periods where satisfactory evidence of the necessity of a temporary suspension may be stated to them; but the Board of Revenue shall not extend the period of such suspension beyond the current Fasli without the previous authority of the Governor in Council.

Attachment and sale of lands for arrears when arrear of revenue accrues.

57. The Board of Revenue shall direct Collectors of districts, where a permanent settlement of the land-revenue may have been concluded, to attach the lands of proprietors who may have fallen in arrear, and shall require Collectors to dispose of the whole, or a part, of such lands, as the case may be, for the recovery of such arrear, in the mode and manner prescribed in the regulations.

58. [*Time when lands may be sold in satisfaction of decrees for arrears.*] *Rep., Mad. Reg. III of 1830, s. 3.*

MADRAS REGULATION II OF 1803.[1]

[THE MADRAS COLLECTORS REGULATION, 1803.]

[*1st January, 1803.*]

A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.

WHEREAS under the system of internal government established for the administration of the public revenue, and for the security of persons and property, individuals should have

---

[1] Short title, "The Madras Collectors Regulation, 1803"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks and the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. As to arrears of revenue recoverable under Mad. Act II of 1864, this Regulation is inoperative—*See* s. 62 of that Act.

the means of ascertaining and knowing the regulations passed for their benefit; and whereas the said system further requires that the power and authority heretofore vested in the immediate Collectors of the revenue should be curtailed; wherefore the following Regulation has been passed for the purpose of defining the authority committed to Collectors, and for describing the modes of procedure required in the discharge of their duty.

Collection of revenues entrusted to covenanted civil servants.

2. The collection of the public revenue derived from land-tax, from duties on commodities by sea and land, from salt, from the excise on spirituous liquors or for other articles of taxation shall be entrusted to Collectors, who shall be covenanted civil servants of the Company.

3, 4. [*Oath to be taken by Collectors: consequences of violation thereof.*] *Rep., Act XII of 1873.*

Collectors to be under orders of Board of Revenue.

5. Collectors shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board.

Papers and accounts to be furnished to all persons authorized to require them.

6. Collectors shall furnish such papers or accounts relating to the revenues under their charge as may be required by the Board of Revenue, the President of the Board of Revenue, by the Accountant General, or by any other public officer authorized to make such requisition.

All acts of Collectors to be public.

7. All acts and proceedings of Collectors shall be held and done publicly; that is to say, in open kacharís accessible to all persons.

Principles on which revenues are to be administered.

8. Collectors shall administer the public revenues to the advantage of the State, the happiness of the people, and the prosperity of the country; and shall suggest such propositions to the Board of Revenue as, in their judgment, may be calculated to augment and improve those revenues.

Collectors to have control over all persons employed under them, and over persons paying revenue or otherwise concerned in revenue.

9. Collectors have had, and are hereby declared to have, authority to superintend and control, under the orders of the Board of Revenue, all persons employed in the executive administration of the public revenue, all zamíndárs or proprietors of land paying revenue, and all farmers, securities, raiyats or other persons concerned in, or responsible for, any part of the revenue to Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

10. [*Seal of Collector.*] *Rep., Mad. Act VI of 1865.*

Collectors to transmit diaries to Board.

11. Collectors shall keep diaries of their proceedings in the English language. The diaries shall contain a record of every official transaction of the Collector, and shall be forwarded to the Board of Revenue for each month, on the fifteenth day of the succeeding month.

Public money, how to be kept.

12. Collectors shall keep the public money in a strong chest secured with two locks of different constructions: the key of one lock shall be kept by the Collector, and the key of the other lock shall remain in the possession of the public shroff.

Jamabandi and kistbandi of land-revenue, permanently assessed to be furnished to Board. An account of other items of revenue to be subjoined.

13. Collectors of revenue in districts where a permanent assessment of the lands may have been fixed shall transmit to the Board of Revenue, within one month after the expiration of each Faslí year, in a form to be approved by the Board of Revenue, a jamábandí and kistbandí statement of the permanent revenue assessed on each zamíndárí or estate into which the districts have been divided or sub-divided by the operation of the Regulations, with an account subjoined of the amount of other items of revenue, whether rented or under the Collector's management; noting in the one case the amount of the rent, and in the other the expected amount of collections.

Collections of revenue to be made regularly.

14. Collectors shall be careful that proprietors of land on whose estates the land-revenue has been permanently fixed, and farmers of land, regularly discharge their taxes and rents agreeably to the kistbandí; and, in the event of a proprietor or farmer of land falling in arrear, Collectors shall proceed to recover such arrear in the mode prescribed by the Regulations already passed, or to be hereafter passed for that purpose.

Persons attaching estates to be furnished with written powers.

15. Collectors shall furnish the person or persons deputed by them to attach estates in pursuance of a decree of a Court of Judicature, or for an arrear of revenue, with sanads of appointment, and with written instructions under their seal and signature.

Apportionment of assessment on all lands to be sold or transferred.

16. Collectors shall apportion the assessment on lands which may be ordered to be disposed of by public sale for the discharge of arrears of revenue, or in pursuance of a decree of a Court of Judicature, or which may be transferred in the manner allowed by the Regulations, from one individual to another.

Collectors to be responsible for apportioning assessment on subdivisions;

17. Collectors shall be held responsible for justly and equitably apportioning the permanent assessment on all sub-divisions of estates, and the amount of such assessment shall be regulated at a rate proportionate to the value which such sub-divisions of estates bear to the gross assets of the whole estates.

to furnish proprietors with amount so apportioned. Appeal therefrom to be forwarded to Board.

18. Collectors, at the time they transmit statements of the public assessment so apportioned on sub-divisions of estates for the consideration of the Board of Revenue, shall furnish the proprietors of the estates in question with the amount of the assessment so apportioned; and, where the proprietors may object and appeal from the assessment proposed by the Collectors for the sub-divisions of the said estate, Collectors shall immediately forward the same, with their remarks, to the Board of Revenue.

Conditions of sale to specify particular obligations not included in general conditions.

19. Collectors shall be careful to specify in the conditions of sale (exclusively of the general conditions of sale as prescribed by the Regulations) any particular obligation which may by the Regulations) any particular obligation which may happen to fall on the purchaser of a sub-division of, or of an entire estate declared for sale.

Attachments of land to be reported to Board.

20. Collectors, on receipt of a decree of a Court of Judicature ordering land paying revenue to Government to be sold, shall proceed to attach a sufficient portion of the said lands to answer the amount of the decree, in such mode as may be prescribed for recovery of arrears of revenue by the Regulations, and shall immediately report such attachment to the Board of Revenue.

Rules to be observed in attaching portions of estates.

21. In attaching portions of estates for arrears of revenue, or in consequence of a decree of a Court of Judicature, Collectors shall be careful to form the sub-divisions compact, selecting such villages and lands as may be situated contiguously to each other. Collectors shall moreover have in view the nature of the soil and available resources of the different lands, and shall be careful to include, as nearly as may be practicable, equal portions of land with contracted means of improvement, and of lands with extensive means of improvement.

In forming sub-divisions, lands watered by one tank to be kept in same sub-division.

22. In forming sub-divisions of estates, Collectors shall be careful to preserve all the lands watered by one tank or water-course in the same sub-division; and, where it may be necessary to deviate from this rule, Collectors shall fully explain such necessity to the Board of Revenue, and wait the orders of the Board on their reference, previously to concluding the arrangement.

Registers of transfers of land.

23. Collectors shall keep registers of all sub-divisions of estates, and of all transfers of landed property, in a form to be submitted to, and to be approved by, the Board of Revenue.

Register of alienated lands.

24. Collectors shall keep, in a form to be approved by the Board of Revenue, registers of all alienated lands paying revenue to Government, or exempt from the payment of public revenue. The registers shall be kept in the mode and manner prescribed by the Regulations already passed, or to be passed, for that purpose.

25. [*Estates of disqualified landholders how managed.*] *Rep., Mad. Act I of 1902.*

Collection of revenue of khas lands.

26. Collectors shall collect the revenue arising from lands held khas in such manner as may be directed by the Board of Revenue.

27 to 29. [*Procedure for recovery of lands held under invalid titles.*] *Rep., Act XII of 1876.*

30. [*Lands for pensioners and invalids.*] *Rep., Act XXIII of 1871.*

Levy of assessment for payment of police.

31. Collectors shall collect the assessments that may be ordered to be levied for the payment of the department of police agreeably to the Regulations enacted for that purpose, or agreeably to the orders of the Board of Revenue, in cases where the said Board may have authority to issue such orders.

Collection of revenue, exclusive of land-tax.

32. Collectors shall collect the revenue arising from sayar, salt, spirituous liquors or from other sources, in the manner prescribed by the Regulations, or in such manner as may be directed by the Board of Revenue in cases subject to their authority.

Receipts for payments of revenue.

33. Collectors shall grant receipts for all payments made into their treasury on account of the public revenue; which receipts shall specify the date of payment, the coin in which payment may be made, and the amount of such receipt shall be written in the English language and in the language of the zila, and shall be registered and numbered in both languages by the keepers of the records; the date of registry shall be indorsed on the back of each receipt.

Copy of register to be sent monthly to Board.

34. Collectors shall transmit, on the fifteenth of each month, to the Board of Revenue, copies of the register of receipts for the preceding month.

Officers employed under Collectors, in collection of revenue, to grant similar receipts.

35. Collectors shall compel the tahsíldárs, or other officers employed under them in the collection of the revenue, to grant receipts for moneys received by them, and to transmit monthly registers of the receipts so granted; the receipts granted by the tahsíldárs or other officers employed in the collection of money, shall contain all the items above specified.

Public servants not to be employed in private business.

36. [1] * * * * * * *
Collectors shall employ none but the public registered servants in the conduct of public business, and Collectors shall not employ public registered servants in the transaction of private business.

Authority to fine public servants.

37. Collectors shall have authority to enforce obedience to their orders, by levying a fine upon public servants disobeying or neglecting such orders, provided that in no instance the amount of the fine shall exceed one month's pay. [2]

Where land-tax is not fixed, rates of assessment to be investigated.

38. In districts where the land-tax may not have been permanently fixed, Collectors shall investigate, with care and with attention, the rules which have immemorially guided the assessment of the public revenue.

Result to be reported to Board.

39. Collectors shall state the result of their investigation to the Board of Revenue, and shall regulate their demands on

---

[1] The first portion of this section, containing obsolete matter, was repealed by Mad. Act II of 1869.
[2] *See* Mad. Reg. IX of 1822.

the raiyats on principles of moderation, and with a just regard to the rights of Government, to the rights of the people, and to the prosperity of the country.

40. Collectors, in districts where the rent may not have been permanently fixed, shall not increase or diminish the rates of wáram, or rates of quit-rent, without permission being first had and obtained from the Board of Revenue for that purpose. **Rates of wàram or of quit-rent not to be altered without permission.**

41. In districts where the land-tax may not have been permanently fixed, Collectors shall report to the Board of Revenue all unauthorized alienations of land, with every circumstance relating to such land; but Collectors shall not resume alienated lands without authority from the Board of Revenue. **Unauthorized alienations of land to be reported to Board.**

42. [*Removal of proprietors.*] *Rep., Mad. Reg. II of 1806.*

43. Collectors shall not grant kauls of any description without authority from the Board of Revenue; and all kauls granted by Collectors shall contain the dates of the authority of that Board. **Collectors not to grant kauls without authority;**

44. Collectors shall not in any case authorize the alienation of land without authority from the Board of Revenue. **Cannot authorize alienation of land.**

45 & 46. [*Requisition for military.*] *Rep., Mad. Reg. II of 1806.*

47 to 55. [*Judicial powers of Collector in districts where no Zila Courts were established.*] *Rep., Mad. Reg. II of 1806.*

56 to 58 [*Magisterial powers of Collectors in districts where no Zila Courts were established.*] *Rep., Mad. Reg. II of 1806.*

59. Collectors shall not make disbursements of public money for advances for cultivation, or repairs of tanks, or for any other purposes, without having previously obtained, through the channel of the Board of Revenue, the authority of the Governor in Council for such disbursement. **Collectors to make no advances without authority of Government.**

60. Collectors, and Assistants to Collectors, shall not be concerned, directly or indirectly, in any farm of the public revenue, either as renters, securities or otherwise. Collectors, or Assistants to Collectors, shall not permit their Native servants to be concerned, directly or indirectly, in any rent or farm of the public revenue, or to be security for any farmer or renter of lands on which the rent may not have been permanently fixed. **Collectors and Assistants not to be concerned in farm of revenue;**

61. Collectors, and Assistants to Collectors, shall not lend money, directly or indirectly, to proprietors of land, renters or persons responsible for the revenue, or in any way concerned in the management of the public revenue. **not to lend money to persons concerned in revenue;**

62. [*Farming of lands to, and taking security from, Europeans prohibited.*] *Rep., Mad. Act II of* 1869.

not to occupy grounds or to erect buildings without sanction;

63. Collectors, and Assistants to Collectors, shall not occupy ground nor erect buildings thereon, without the sanction of the Board of Revenue.

not to trade:

64. Collectors, and Assistants to Collectors, shall not exercise or carry on trade or commerce, directly or indirectly, and shall not be engaged in any bank or house of agency.

not to publish any thing which may affect intercourse with foreign States.

65. Collectors shall not publish proclamations or orders which may in any shape affect the intercourse of the British nation with foreign States, without an express order from the Governor in Council for that purpose.

Applications for leave of absence.

66. Collectors, and Assistants to Collectors, shall (in cases requiring it) apply to the Board of Revenue for temporary leave of absence from their station. Collectors, or Assistants to Collectors, shall not absent themselves from their stations without having previously obtained the permission of the Board of Revenue. In the event of severe illness compelling Collectors to quit their stations without such authority, on the affidavit of medical persons with respect to the necessity of such absence, they shall deliver charge of their districts to the head Assistant on the spot, and shall report the circumstance without delay to the Board of Revenue.

Charge in Collector's absence.

67. In the absence of Collectors, the senior Assistant on the spot shall take charge of the public business.

Collectors removed or resigning, to deliver public documents to their successors.

68. On the resignation or removal of Collectors, they shall deliver to their successors or Assistants every public account and document, with all original letters received, and attested copies of all letters sent, relative to their charges respectively. Collectors shall certify officially duplicate lists of such accounts and documents, and shall deliver one list to their successors or Assistants, and shall forward the other list to the Board of Revenue.

Collectors receiving charge to count balance of cash and grant receipts in duplicate.

69. Collectors on receiving charge shall count the balance of cash delivered to them, and shall grant receipts for the amount in duplicate; one receipt shall be retained by the person delivering over charge, and the other shall be transmitted to the Board of Revenue.

MADRAS REGULATION V OF 1804. [1]

[THE MADRAS COURT OF WARDS REGULATION, 1804.]

[*28th August 1804.*]

A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the Rules under which those powers are to be exercised.

[*Rep. except as regards the Scheduled Districts, Mad. Act I of 1902.*]

MADRAS REGULATION I OF 1816. [2]

[THE TANJORE POLICE REGULATION, 1816.]

[*12th January 1816.*]

A Regulation for declaring the contributions hitherto paid in the Province [3] of Tanjore on account of the Kávali Police appropriable to the support of the new Police established, or to be established, in that Province; and * * * [4] for regulating the collection and assessment of those contributions.

WHEREAS it has been deemed expedient to abolish the Kávali system in the Province of Tanjore, and to establish a more efficient system of police for that Province; and whereas **Preamble.**

---

1 Short title, "The Madras Court of Wards Regulation, 1804"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was repealed in the whole of the Madras Presidency, except the Scheduled Districts, by Madras Act I of 1902.

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid.* p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.* p. 722.

The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

2 Short title, "The Tanjore Police Regulation, 1816"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

3 The Madras District Police Act, 1859 (XXIV of 1859), is in force in the District of Tanjore—*see* Notification, dated 19th January 1860 noted at p. 456 of Vol. I of the Madras List of Local Rules and Orders, Ed. 1923.

4 Certain words in the title and preamble, relating to the house-tax, have been, omitted as obsolete.

it has become necessary, in consequence, that the funds hitherto allotted for the support of the Kávali system should be declared appropriable, under the orders of the Governor in Council, to the maintenance of the new establishments of police; and whereas those funds, derived from certain proportions of the annual gross produce of cultivated lands, whether málguzári or lákhiráj, from certain allotments of lands rent-free or favourably assessed, from * * * [1] the contributions termed porupu and magamai, and other taxes of various descriptions, have never been regulated by public authority, but have been partially collected, and their collection has been attended with much inconvenience, irregularity and trouble; and where as it is expedient that * * * [1] provision should be made for collecting such sums as may be due in arrear to the police-fund, according to the rules which have been heretofore adopted by the Collectors of the land-revenue under the sanction of the Board of Revenue; therefore, with a view to provide for the equalization and due collection of the said funds, and to render them appropriable to the support of the new police-establishments in Tanjore, the Governor in Council has been pleased to enact the following Regulation to take effect from the date of its being promulgated.

Contributions on account of police appropriable to support of new police.

2. The contributions and allowances of every description, whether in money, grain or land, which have hitherto been allotted for the support of the Kávali system of police in the Province of Tanjore, are hereby declared to be resumed, and to be appropriable, under such orders as the Governor in Council may be pleased to issue, to the maintenance of the new establishment of police in that Province.

Collections from màlguzàri lands.

3. *First.*—The contributions from málguzárí lands hitherto levied for the Kávali establishments, under the denomination of Kávali svatantrams, shall continue to be collected. The annual amount of such contributions, to be assessed on each village respectively, shall be the average of Kávali svatantrams paid or payable by each village in the six years from Faslí 1214 to Faslí 1219, inclusive. The contributions above-mentioned shall be paid by the mirásídárs or renters into the public treasury at the time and in the manner which may be established for the payment of the land-revenue.

Assessment on villages under amàni between Faslis 1214 and 1219;

Second.—The amount of contribution to be paid in lieu of Kávali svatantram by villages which were under management during the period mentioned in the preceding clause, or during any part thereof, shall be collected at the established centage on the actual amount of the produce of such village.

and upon villages now or hereafter under amàni.

Third.—In villages which now are, or shall hereafter come, under management, the Collector shall levy the contributions to be raised on account of Kávali svatantram from the actual produce of such villages in grain at the established rates, and shall realize the same into the public treasury, in like manner as the land-revenue of those villages.

[1] See fourth footnote on the preceding page.

4. The allowances and contributions hitherto paid to the Kávalgárs by the holders of land wholly or partly alienated shall cease, and in lieu thereof there shall be annually levied from the holders of such lands a contribution in money at the same rate per véli, as, under the provisions of clause first, section 3 of this Regulation, is to be collected from the holders of the neighbouring málguzárí lands of similar description and quality.

Contribution to be levied on account of police from lands wholly or partly alienated.

5. [*Rules regarding assessment of house-tax.*] *Rep., Act XVIII of 1861.*

6. *First.*—The Collector of the land-revenue shall continue to levy and receive the svatantaram assessment * * * [1] All arrears of such contributions as are established by this Regulation shall be recoverable by distraint of personal property, in the same way and under the same process as arrears of the land-revenue.

Contributions by whom to be levied. Recovery of arrears.

Second.—All arrears which may be due to the police-fund under the former usages of the Province of Tanjore, or under the orders of the Board of Revenue, and of the Governor in Council, shall, in like manner, be recoverable by distraint of personal property in the mode prescribed by the Regulations for the recovery of arrears of revenue.

Recovery of arrears now due under usage of province or orders of Board and of Government.

MADRAS REGULATION XI OF 1816.[2]

[THE MADRAS VILLAGE-POLICE REGULATION, 1816.]

[*13th September 1816.*]

A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.

1 to 7. [*Repeal of certain enactments : Persons by whom Police duties are to be discharged: Powers and duties of heads of villages: Police duties.*] *Rep., Act XVII of 1862.*

---

[1] The reference to the house-tax was repealed by Act XVIII of 1861, s. 1.

[2] Short title, "The Madras Village-Police Regulation, 1816"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

Sections 8, 9, 10, 11 *cl.* (1), 13, 14 and 17 were declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—*see Gazette of India,* 1879, Pt. I, p. 630, and *Fort St. George Gazttee, ibid.* p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India,* 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.* p. 722.

The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette,* 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

Information to be communicated by heads of villages to each other.

8. Heads of villages shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's villages, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

To report arrival of suspicious persons.

9. Heads of villages shall report to the Police-officer of the district the arrival in their villages of strangers of suspicious appearance, and all information which they may be able to collect concerning such persons.

Powers of heads of villages to inflict punishment.

10. *First.*—[1] In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or, if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry for a time not exceeding twelve hours * * * [2].

Obligation to report cases of punishment.

Second.—Heads of villages shall report to the Police-officer of the district all cases in which they shall have exercised the power of punishment granted to them by the first clause of this section, but it shall not be necessary for them to report the cases in which they may dismiss parties.

Heads of villages how to proceed on receiving information of stolen property.

11. *First.*—Where heads of villages may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with unless prompt measures be taken to secure it, they shall cause search to be made and the property, if found, to be secured and forwarded with the offender to the Police-officer of the district. If the place of concealment be a dwelling-house, the search shall be made only between sunrise and sunset.

Second and Third.—[*Procedure when persons found selling stolen property.*] ***Rep., Act XVII of 1862 as amended by Act XXXVI of 1867.***

12. [***Duties of heads of villages with regard to strays.***] *Rep., Act III of 1857.*

13. *First.*—The head of the village, on receiving information of the discovery of the body of a person supposed to have been murdered, shall immediately proceed to the spot with the Karnam and two or three respectable inhabitants, in whose presence he shall examine every person who may be able to afford any information regarding the discovery of

---

[1] This clause has been extended to petty thefts—*see* Mad. Reg. IV of 1821, s. 6, cl. 1.

[2] The words "or if the offending parties shall be of any of the lower castes of the people, on whom it may not be improper to inflict so degrading a punishmnet, to order them to be put in the stocks for a time not exceeding six hours" were repealed by section 27 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

the body and its appearance when discovered, or regarding the murder of the deceased, if the body should have been deprived of life by murder.

Second.—The head of the village on receiving information of the discovery shall also, without delay, send notice of it to the Police-officer of the district and, if the Police-officer shall arrive at the spot in time to inquire into the circumstances under which the body may have been discovered, the inquiry shall be conducted under his superintendence. **Notice of such discovery to Police officer.**

Third.—If the Police-officer should not appear to conduct the inquiry, the head of the village shall cause the Karnam to take down in writing the evidence of the persons who may be examined, and to record any necessary particulars respecting the appearance of the body, and to frame a report of the whole proceedings. The head of the village shall attest such report with his signature, and, having procured it to be attested by two or more of the inhabitants who may be present at the investigation and by the Karnam, he shall forward it to the Police-officer of the district with the evidence he may have taken. **Procedure where Police-officer fails to appear to conduct inquiry.**

Fourth.—If on the proceedings of the head of the village there shall in any case appear ground for suspecting any person or persons who may be within his jurisdiction of having committed the murder, the head of the village shall immediately apprehend and send such person or persons to the Police-officer of the district. **Apprehension of person suspected of murder.**

14. Karnams shall keep registers of persons confined by the heads of villages under section 10 of this Regulation, and these registers shall be transmitted monthly by the heads of villages to the Police-officers of their respective districts, to be forwarded to the Magistrate. **Registers of persons confined to be kept by Karnams, and transmitted to Police-officer.**

[*Form of Register.*] *Rep., Reg. IX of 1828, s. 2.*

15 to 46. [*Appointment and duties of village-watchers: duties of kutwals and their peons: Police duties of Tahsildárs and other Revenue servants: powers and procedure of Tahsíldárs in various cases: Zamíndárs as Police-officers: Amins of Police in large towns: limitations for complaints of petty offences: arrest of persons tendering property for sale or pawn under suspicious circumstances: prosecution of Police-officers for extortion or oppression: Police-officers to take no cognizance of cases of adultery and fornication.*] *Rep., Act XVII of 1862.*

47. The Magistrates shall be charged with the maintenance of the peace within their respective zilas, and, whenever their establishments may be insufficient to resist banditti or other disturbers of the public peace, they shall apply for assistance to the nearest military station * * * [1]. **Magistrates charged with the maintenance of peace.**

[1] Certain words, repealed by Act XII of 1876, have been omitted. The words had previously been repealed by Mad. Reg. II of 1832.

48 to 51. [*Police peons to be equally employed in Police and Revenue duties: licences for manufacture of fire-arms: inter-communication between Magistrates: duties of Magistrates in case of disputes concerning crops or use of water.*] *Rep., Act XVII of 1862.*

52. [*Disposal of strays.*] *Rep., Act III of* 1857. [1]

53 to 56. [*Determination of rates of hire of palanquin-bearers, coolies, etc.: complaints regarding false weights and measures: only Magistrates to issue orders to Police-officers: may correspond direct with Government.*] *Rep., Act XVII of 1862.*

MADRAS REGULATION XII OF 1816. [2]

[THE MADRAS VILLAGE-LANDS DISPUTES REGULATION, 1816.]

[*13th September, 1816.*]

A Regulation for authorizing Collectors to refer *claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary* [3]; as also certain disputes respecting the occupying, cultivating, and irrigating of land, to be tried and determined by Village and District Pancháyats; and for prescribing the Rules under which the trial of such disputes shall be conducted, and the decisions of the Pancháyats carried into execution.

Preamble. [3] *The mode of determining the validity of claims to disputed lands or crops prescribed in section 2, Regulation*

---

[1] Also included in the Schedule to Act XVII of 1862.

[2] Short title, " The Madras Village-lands Disputes Regulation, 1816 "—*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country —*see* Gazette of India, 1879, Pt. I, p. 631, and Fort St. George Gazette, *ibid*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see* Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid*, p. 722.

The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

[3] The Regulation has been repealed by the Madras Survey and Boundaries Act, 1897 (Mad. Act IV of 1897), so far as it applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or landmark.

XXXII, 1802,[1] *being considered to be inconvenient to the parties*, and the determining, in the Adálat of the zila of suits respecting the occupying, cultivating and irrigation of land, which may arise between proprietors or renters and their raiyats, in those districts where the land-revenue is fixed either permanently, or for a term of years, being also regarded as liable to the same objections; and it being deemed expedient that further provision should be made for the investigation and determination of such claims, and that Collectors should for that purpose be authorized to refer them for trial and decision to Village and District Pancháyats; the Governor in Council has passed the following rules, to be in force in the territories subject to the Presidency of Fort St. George.

Panchayats authorized to determine suits referred to them.

2. Village and District Pancháyats are hereby authorized to hear and determine such suits as may be referred to them by the Collectors of zilas under this Regulation, through the Village and District Munsifs.

Employment of relatives, etc., as vakils.

3. Plaintiffs and defendants shall be allowed to employ a relative, a servant or dependent to act in their behalf in suits which may be brought before the Collectors of zilas under this Regulation, under the same provisions as are prescribed * * *[2] for suits before the District Munsifs.

In what cases persons may prefer their claims to Collectors.

4. *First.*—In cases of claims to lands or crops in districts permanently settled or otherwise, the validity of which claims may depend on the determination of an uncertain and disputed boundary or landmark, and also in cases of disputes respecting the occupying, cultivating, and irrigating of land which may arise between the proprietors or renters and their raiyats, in those districts only where the land-revenue is fixed, either permanently or for a term of years, persons having such claims may prefer them in person or by vakíl to the Collector of the zila in which the lands may be situated.

What the plaint is to contain if for land.

Second.—The plaint, if for land, shall contain as accurate a description as can be obtained of the land claimed, its position, boundaries, extent and the value of its estimated annual produce, also whether it be subject to the payment of rent or revenue, or whether it be exempt from any charge on these accounts, also the time when the cause of action arose, the name and residence of the person or persons complained against, and all material circumstances which may elucidate the transaction.

What the plaint is to contain if for water.

Third.—If the plaint be for water, it shall, with regard to the land to be watered, state the above particulars and in addition thereto the custom of the village relative to the irrigation of the land in question.

Summons to defendant to be issued.

5. *First.*—The Collector, on receiving a complaint preferred under the preceding section, shall issue a summons to the

[1] Rep., Mad. Reg. V of 1822, s. 10.
[2] Certain obsolete words have been repealed by Act XII of 1876.

Contents of summons. How to be attested and served.

defendant containing a short abstract of the complaint, and shall require the defendant to appear at the kacharí of the Collector, in person or by vakíl, on a day specified, to make answer to the complaint. The summons shall be attested by the seal of the Collector and his official signature, or that of his Assistant, and shall be served by a single peon of the Collector's establishment.

Peon how to proceed. Refusal to acknowledge summons; how to be attested.

Second.—The Collector's peon shall require the defendant to affix his signature to the summons in acknowledgment of its having been duly served; and, in the event of defendant refusing to affix his signature thereto, the peon shall call upon some of the village-officers or neighbours of the defendant to witness such refusal and to attest the endorsement of it which he shall make on the summons, and shall return the same to the Collector on or before the day fixed for such return.

How Collector to proceed if defendant is not to be found, or refuse to acknowledge summons. Notice to be affixed. Where notice is to be affixed. Return how made.

Third.—If a defendant against whom a summons may issue shall abscond or is not after diligent search to be found, or shall shut himself up in his own or in any house or building, or retire to any place, so that the process cannot be served upon him and the peon shall return that on such account he has not been able to serve or execute the process, or if he shall refuse to acknowledge the service of the summons, on return being made in the mode prescribed in the preceding clause, the Collector shall cause a writing in the language of the district to be stuck up in some conspicuous part of his kacharí, containing a copy of the summons and a notice that if the party shall not appear on a day to be specified (which shall not be less than fifteen days from the time that the notice may be fixed up), the Collector will proceed without further notice to refer the cause, with the consent of the plaintiff, to be tried and determined by a Pancháyat of the district in which the disputed lands may be situated, without the appearance or answer of the defendant. The Collector shall likewise order a copy of the summons and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may have generally resided. The peon serving the summons shall return the order, with an endorsement stating at what times and places the summons may have been fixed up.

Collector how to proceed if defendant appear. Defendant liable to fine for contempt. Collector how to proceed if such fine be not paid or security given.

Fourth.—If the defendant shall appear by the time limited in the notice, the Collector shall proceed to investigate the cause of his absence, or the circumstance of his refusal to sign the summons, and, if it shall appear to the satisfaction of the Collector that the conduct of the defendant has been contemptuous, he is empowered to punish such contempt by imposing a fine on the defendant, according to the circumstances of the case, not exceeding ten rupees; and if such fine be not immediately paid, or security given for the payment within a reasonable time, the Collector shall punish such defendant by committing him to the zila jail, or by keeping him in custody in the

kacharí or village-choultry for a period not in any case exceeding fifteen days, or until the fine shall be paid.

Fifth.—On the appearance of the defendant, if he shall appear according to the first summons, or by the time limited in the notice, the Collector shall cause the plaint to be read over to the defendant in the presence of the plaintiff, and shall demand whether he admit or deny the truth of the complaint. If the defendant shall acquiesce in the truth of the complaint, the Collector shall record such acquiescence at the foot of the plaint, and require the defendant to attest the same with his signature in the presence of witnesses, not being servants of the Collector's establishment, who shall also attest the same, and the document shall be countersigned by the Collector, who shall return the document to the complainant, together with an order to the Tahsíldár or principal Native Revenue-officer of the district or Village Munsif, to transfer the lands described in the plaint to the plaintiff; or, if the plaint include crops grown on such lands, to cause the crops, or the value of them to be restored to the plaintiff by the defendant; or, if the plaint be for water to order the water to be distributed as required in the plaint; and no other proceedings shall be necessary in the cause.

Plaint to be read to defendant in presence of plaintiff.

Procedure when defendant admits truth of plaint.

Sixth.—If the defendant shall deny the truth of the plaint, the Collector shall inquire of the parties whether they mutually consent to have the cause investigated and decided by a Village Pancháyat; and upon their agreeing in writing to have the matter investigated and decided by the Pancháyat of any particular village, the Collector shall immediately forward the petition of plaint with an order to the Munsif of that village to assemble a Pancháyat without delay to investigate and determine the suit.

Procedure when defendant denies truth of plaint.

Seventh.—If either the plaintiff or defendant shall object to the reference of the cause to be tried and determined by a Village Pancháyat, and either of them shall desire in writing that it may be referred to be tried and decided by a District Pancháyat, the Collector, whether the other party agree to such reference or not, shall forward the plaint to the Munsif of the district in which the disputed property may be situated, with an order to assemble a Pancháyat, within fifteen days from the receipt of such order, to investigate and determine the suit.

When matter may be referred to District Pancháyat.

Eighth.—If neither of the parties shall agree to the reference of the suit to a District Pancháyat, the suit shall be dismissed, and the parties shall be at liberty to seek redress from the Zila Court or any competent jurisdiction.

If neither party agree to reference, suit to be dismissed.

6. *First.*—The Pancháyats shall be assembled according to the rules prescribed for assembling Village and District Pancháyats, and their proceedings in cases referred under this

Pancháyats how assembled; their procedure.

Regulation shall be conducted according to the general rules enacted in Regulations V [1] and VII, [2] 1816, for their guidance, with the following qualifications.

When Panchâyat to be formed on challenge of one party.

Second.—When only one of the parties shall appear before the District Munsif, the Panchâyat shall be formed upon the challenge of such party only, and shall proceed to try the suit * * * [3].

Sending copies of decree to Collector.

Third.—When the decree has been framed and two copies of it prepared, it shall be read in the presence of the parties, and the two copies shall be sealed up in a packet and delivered to the Munsif, who shall forward it to the Collector sealed as he received it.

Decrees to be confirmed before execution. When to be set aside.

Fourth.—Decrees of the Village and District Panchâyats in suits which may be referred to them by the Collectors under this Regulation shall not be carried into execution until confirmed by the Collector, nor shall they be set aside for any other cause than gross partiality on the part of the Panchâyat.

Forms to be observed by Collector on receiving packet.

7. The Collector shall detain the packet in the state in which he received it for twenty days; and, if in that time no charge of gross partiality shall be preferred by either party against the Panchâyat, he shall open the packet and confirm the decision by affixing his seal and signature to each of the two copies, and he shall return them to the Munsif from whom he received them.

When to be delivered to parties.

8. *First.*—The Munsif, on receiving the copies of the decree confirmed by the Collector, shall summon the parties and deliver to each of them a copy of the decree.

Non-appearance, or refusal, to receive copy, to be endorsed.

Second.—If either the plaintiff or defendant shall fail to appear in person or by vakîl to receive a copy of the decree, or, having attended, shall refuse to receive a copy, the Munsif shall cause to be endorsed on the copy intended for such party such omission or refusal, and the date. The Munsif shall attest the same with his signature, which shall be witnessed by any two credible witnesses. The copy so endorsed shall be deposited in the records of the District Munsif, or the Village Karnam, as the case may be, to be delivered to the party afterwards claiming it.

Collector how to proceed on charge of partiality being preferred to him and proved to his satisfaction.

9. *First.*—If either of the parties shall, within the prescribed period of twenty days, charge the Panchâyat with gross partiality, and if the partiality charged against the Panchâyat shall be established to the satisfaction of the Collector * * [4] he shall in every case, whatever the amount or value of the suit may be, submit his proceedings, with his opinion on the case,

---

[1] Repealed by Madras Act II of 1920.

[2] Mad. Reg. VII of 1816 has been repealed by Act III of 1873.

[3] Certain obsolete words have been repealed by Act XII of 1876.

[4] Certain obsolete matter has been repealed by Act XII of 1876.

to the * * [1] Court of Appeal, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another Pancháyat or to any other competent jurisdiction.

Second.—Provided, however, that the decision of a second Pancháyat shall agree with the decision of a former Pancháyat in the same suit, it shall be final. **When decision of Pancháyat final.**

Third.—If the partiality charged against the Pancháyat shall not be proved to the satisfaction of the Collector, he shall confirm the decree as prescribed in section 7 of this Regulation, and shall levy a fine from the party making such groundless charge, not exceeding one hundred* [2] rupees. **Collector how to proceed on partiality not being proved; may levy a fine.**

10. Decrees of Village and District Pancháyats, in cases referred to them under this Regulation, shall be carried into execution, on the written application of the party in whose favour the decree may be given, by the Collector, or by the Tahsíldár or principal Native Revenue-officer of the district, by causing the boundary, when the suit relates to a disputed boundary, to be marked out in the presence of the Village Munsif and Karnam and two or more of the principal inhabitants, and in all other cases by causing the land to be given up or the water to be distributed as prescribed by the decree. **Decrees how to be executed.**

11. Suits instituted before the Collectors under this Regulation shall be * [1] liable only to such charges as are specified in Regulation V, 1816, [3] if decided by a Village Pancháyat.* [1] **Charges on suits under Regulation**

12. [*Returns of decisions of Pancháyats.*] *Rep., Mad. Act II of 1869.*

13. A copy of this Regulation shall be lodged with and preserved by each Village Karnam, for the information of the Village Munsifs. **Deposit of Copy of Regulation.**

---

1 Certain obsolete matter has been repealed by Act XII of 1876.

2 The word "Arcot" was repealed by Act XII of 1876.

3 Repealed by Madras Act II of 1920.

MADRAS REGULATION VII OF 1817.[1]

[THE MADRAS ENDOWMENTS AND ESCHEATS REGULATION, 1817.]

[*30th September 1817.*]

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges, or other public purposes; for the maintenance and repair of bridges, choultries or chattrams, and other public buildings; and for the custody and disposal of escheats.

WHEREAS considerable endowments have been granted in money, or by assignments of land, or of the produce or portions of the produce of land by former Governments of this country, as well as by the British Government, and by individuals for the support of mosques, Hindu temples, colleges and choultries, and for other pious and beneficial purposes; and whereas there are grounds to believe that the produce of such endowments is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the

---

[1] Short title, "The Madras Endowments and Escheats Regulation, 1817"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

So much of this Regulation as relates to endowments for the support of mosques, Hindu temples or other religious purposes is repealed by the Religious Endowments Act, 1863 (XX of 1863).

This Regulation has been repealed so far as it applies to the Hindu religious endowments to which the Madras Hindu Religious Endowments Act, 1926 (Madras Act II of 1927) applies—*see* s. 8 of that Act.

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—*see* Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, *ibid.*, p. 722.

It has been extended by notification under s. 5 of the above-named Act, to the Taluqs of Bhadrachalam and Rakapalli—*see* Gazette of India, 1879, Pt. I, p. 630 and Fort St. George Gazette, *ibid.*, p. 722.

The Regulation has been declared by notification under s. 3 (*b*) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort St. George Gazette, 1898, Pt. I, p. 667, and Gazette of India, 1898, Pt. I, p. 872.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

The Regulation has been declared by a notification under s. 3, cl. (a) of the Schedued Districts Act, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I, p. 553.

individuals in immediate charge and possession of such endowments, and whereas it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover expedient to provide for the maintenance and repair of bridges, choultries, chattrams and other buildings which have been erected either at the expense of Government or of individuals, for the use and convenience of the public; and also to establish proper rules for the custody and disposal of escheats—the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort St. George.

General superintendence of endowments for support of mosques, etc.

2. The general superintendence of all endowments in land or money granted for the support of mosques, Hindu temples or colleges, or for other pious and beneficial purposes, and of all public buildings, such as bridges, choultries or chattrams, and other edifices, in the several Provinces dependent on the Presidency of Fort St. George, is hereby vested in the Board of Revenue.

Board to provide for appropriation of such endowments, and for repair of public buildings.

3. It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description above-mentioned are duly appropriated to the purpose for which they were destined by the Government or the individuals by whom such endowments were made. In like manner it shall be the duty of that Board to provide, [1][* * * *] for the due repair and maintenance of all public edifices which have been erected at the expense either of the former or present Government, or of individuals, and which either are or can be, rendered conducive to the convenience of the community.

Buildings fallen to decay or not calculated to be useful if repaired, how to be disposed of.

4. In those cases, however, in which any of the buildings specified in the preceding section have fallen to decay, and cannot be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Board of Revenue shall submit to Government their opinion as to the most expedient mode of disposing of such buildings; and they shall be sold on the public account, or otherwise disposed of, as the Governor in Council may determine.

Board to prevent endowments from being appropriated to private uses.

5. Under the foregoing rules it may be incumbent on the Board of Revenue to prevent any endowments in land or money, which have been granted for the support of establishments of the above description, or any public edifices, from being converted to the private use of individuals or otherwise misappropriated.

---

[1] The words "with the sanction of Government" were repealed by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

General superintendence of escheats.

6. The general superintendence of all escheats is likewise hereby vested in the Board of Revenue, who will, through the channel hereafter mentioned, inform themselves fully of all property of that description, and submit to Government their opinion as to the most expedient mode of disposing thereof: and the same shall be sold on the public account, or otherwise disposed of, as the Governor in Council may determine.

Local agents.

7. To enable the Board of Revenue the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila, subject to the authority, control and orders of that Board.

Ex officio agents.

8. The Collector of the zila shall be *ex officio* one of those agents, and the Governor in Council, when he deems it necessary, may appoint any other public officer or officers from the civil, military or medical branch of the service to act in conjunction with him.

Agents to ascertain particulars of endowments, etc., and report to Board;

9. Under the provisions of the present Regulation it will be the duty of the local agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those before described, and respecting all escheats, and to report to the Board of Revenue any instance in which they may have reason to believe that lands or buildings, or the rent or revenues derived from lands are unduly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

to report names, etc., of present trustees or managers, and by what authority appointed;

10. The said local agents shall further ascertain and report to the Board of Revenue the names of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, together with other particulars respecting them, and by whom and under what authority they have been appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder or under any general rules or maxims applicable to such institutions and foundations.

to report to Board vacancies or casualties, and pretensions of claimants;

11. The local agent shall also report to the Board of Revenue all vacancies and casualties which may occur, with full information of all circumstances, to enable that Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession has been heretofore by inheritance in the line of descent, or whether the successor has been in former instances elected, and by whom, or whether he has been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

12. In those cases in which the nomination has usually rested with the Government, or with the public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation, and to the general rules or the known usages of the country applicable to such cases.

to recommend fit persons where right of nomination rests with Government.

13. On the receipt of the report and information required by the preceding clause, the Board of Revenue shall either appoint the person or persons nominated for their approval, or shall make such other provision for the trust, management or superintendence, as may to them seem right and fit, with reference to the nature and conditions of the endowment, having previously called for any further information from the local agents that may appear to them to be requisite.

Board to appoint persons, or make other provisions for trust with reference to conditions of endowment.

14. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the before-mentioned authorities with respect to the appropriation of any lands or buildings, or of any rents and revenues from lands, of the nature of those before described, from suing in the mode and form prescribed by the Regulations where Government or public officers are parties; or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Persons feeling injured by orders under Regulation may sue for recovery of rights or for damages.

15. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands or other endowments granted for public purposes agreeably to the intent of the grantor, and not to resume any part of them or of their produce, for the benefit of Government. In like manner it is fully intended that all buildings erected by any former or the present Government, or by individuals, for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot be conveniently repaired or which can no longer contribute to the accommodation of the community.

Object of Regulation.

16. The legislative provisions now in force or which may hereafter be enacted, for the punishment of fraud or embezzlement in the Native servants of Government employed under the Collector in the department of land-revenue, shall be held applicable to all Native servants, and to all trustees, managers

Native servants and others guilty of fraud or embezzlement, how punished.

or superintendents employed in, or charged with, the settlement, custody or appropriation of the revenues, funds or other property of the public institutions referred to in this regulation.

[1] [**17.** Notwithstanding anything hereinbefore contained, the Governor in Council may delegate power to dispose of buildings under section 4 of escheats under section 6 to the Board of Revenue or to any officer not below the rank of an officer in charge of the revenue administration of a division of a district.]

MADRAS REGULATION VIII OF 1817.[2]

[THE MADRAS REVENUE RECOVERY (MILITARY PROPRIETORS) REGULATION, 1817.]

[*9th December* 1817.]

[3] A Regulation for regulating the procedure where the estate of a native officer or soldier in the Madras Command becomes liable to sale for an arrear of revenue.

1 to 8. [*Modification in favour of Native officers and soldiers of the provisions of certain Regulations regarding suits ; appointment by them of attorneys to conduct suits : rules to be observed when suits brought against them : grant of leave for purpose of suits : permitted to conduct suits in person : such suits to be taken up at once and speedily decided : notice required when their lands attached.*] *Rep., Act X of* 1861.]

Registration of proprietors of málguzári estates, being Native officers or soldiers.

9. *First.*—Any registered proprietor of an estate paying revenue to Government, who may be entertained as a Native officer or soldier [in the Madras Command],[4] shall be at liberty to notify to the Collector the rank which he may hold and the designation of the corps to which he may be attached. A record of such notification shall be inserted by the Collector in the public registers and accounts relative to the estate and its

---

1 Section 17 was added by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

2 Short title "The Madras Revenue Recovery (Military Proprietors), Regulation, 1817" —*see* the Repealing and Amending Act, 1901 (XI of 1901).

Section 9 of this Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874) section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared not to apply for the East Godavari Agency by notification under sub-section (2) of section 52-A of the Government of India Act, 1919—*see* Fort St. George Gazette, 1930, Part I, p. 1932.

3 This title has been substituted for the original title by the Repealing and Amending Act, 1901 (XI of 1901)—Second Schedule, Part I.

4 The words in square brackets were substituted for the words "on the Military establishment under the Presidency of Fort St. George" by the Amending (Army) Act, 1894 (XIII of 1894)—Second Schedule.

assessment; and in cases in which the estate, or a portion of the estate, of a Native officer or soldier who may have made such notification shall become liable to public sale for the recovery of an arrear of revenue, the Collector shall address an official letter to the Commanding Officer of the corps drawn in the formprescribed in No. 5 of the Appendix to this Regulation, and shall enclose in such letter a written notice, signed and sealed by himself and attested by the principal Native officer on his establishment, specifying the amount of the arrear and the date on which it became due, and requiring that it be paid at the treasury of the collectorship within such limited period of time as, on consideration of the distance at which the corps may be stationed, and other circumstances of the case, may appear to be proper and reasonable.

Collectors how to proceed if such estate become liable to sale for arrear of revenue.

Second.—The Commanding Officer of the corps shall acknowledge to the Collector the receipt of his letter, and shall specify the date on which the notice may have been communicated to the party, or the circumstances which may have rendered it impracticable to make such communication.

Commanding Officer how to proceed on receiving notice.

Third.—If the Native officer or soldier shall omit to discharge the arrear within the term specified in the notice, the Collector shall report the circumstances of the case to the Board of Revenue, transmitting at the same time a copy of the notice and of his correspondence with the Commanding Officer, and shall be guided in his further proceedings by the orders which he may receive in each case from the Board.

Collectors how to proceed when arrears are not discharged in specified time.

10. [*Protection of correspondence by Commanding Officers with Courts on the merits of cases.*] *Rep., Act X of* 1861.

APPENDIX.

FORMS NOS. 1 TO 4.

[*Repealed by Act XII of* 1876.]

FORM NO. 5.

To

Commanding Officer of the Bat. Regt.

SIR,

I HAVE the honour to inform you that the right of [*A. B.*] in the village [*or* estate] of is about to be, sold on account of arrears of public revenue for the year . ,

In conformity with clause first, section 9, Regulation VIII, 1817, I herewith enclose a written notice to be communicated to said to be an officer [*or* sepoy] in the corps under your command, and who alleged to be the proprietor [*or* sharer] of the village [*or estate*] in question.

You are requested to acknowledge the receipt of this letter, and to state on what day the notice may have been communicated by you to the said , or the circumstances which may have rendered it impracticable to make such communication.

I am, Sir, etc.,

————————,

Díwání Adálat, *Judge.*

MADRAS REGULATION II OF 1819.[1]

[THE MADRAS STATE PRISONERS REGULATION, 1819.]

[*4th March* 1819.]

A Regulation for the confinement of State Prisoners.

Preamble.

WHEREAS reasons of State policy occasionally render it necessary to place under personal restraint individuals against

---

1 Short title, "The Madras State Prisoners Regulation, 1819"—*see* the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared in force in the Scheduled Districts in Ganjam and Vizagapatam by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874)—*see* Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, 1898, Pt. I, p. 666 ; in the Rampa Country—*see* notification No. 1151, Gazette of India, 1879, Pt. I, p. 630, and Fort St. George Gazette, 1879, Pt. I, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluks of Bhadrachalam and Rakapilli—*see* Fort St. George Gazette, 1879 Pt. I, p. 722, and Gazette of India, 1879, Pt. I, p. 630.

The Regulation has been declared by a notification under section 3, clause (*a*) of the scheduled Districts Act, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see* Fort St. George Gazette 1930, Part I, page 553.

As to direction of warrants under this regulation—*see* Act V of 1871, section 15. The Habeas Corpus section (491) of the Code of Criminal Procedure, 1898, does not apply to persons detained under the Regulation.

As to commitments by the Agents in Ganjam and Vizagapatam—*see* Act, XXIV of 1839, section 7. For further provisions—*see* the State Prisoners Act, 1858 (III of 1858).

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support, according to his rank in life and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others, situated within the territories dependent on the Presidency of Fort St. George, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Governor in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort St. George * *.[1]

Procedure in placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant of commitment shall be according to the form prescribed in the Appendix to this Regulation.

Warrant to be authority for detention of State prisoner.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort St. George.

---

1 Certain obsolete words have been repealed by Act XII of 1876.

Officers having custody of State prisoners to report to Government.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor in Council, through the Chief Secretary to Government, on the conduct, the health and the comfort of such State prisoner, in order that the Governor in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. [*State prisoners to be periodically visited.*] *Rep., Act XVI of* 1874.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor in Council.

Report as to their confinements, health and allowances.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family according to their rank in life.

Allowance to be appropriated for support of State prisoner.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Foregoing provisions made applicable to persons already confined as State prisoners.*] *Rep., Act XII of* 1876.

Attachment of estates by orders of Government when to be communicated to Court.

9. Whenever the Governor in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge of the district in which the lands or estates may be situated * *[1] and to the Sadr and Faujdari Adalat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles as those of other estates held under khas management.

---

1 Certain obsolete words have been repealed by Act XII of 1876.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts or for the realization of fines or otherwise, during the period in which they may be so held under attachment. **Not liable to be sold while under attachment.**

Third.—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts. **Satisfaction of decrees of Courts.**

11. Whenever the Governor in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment. **Procedure when Government releases estate from attcahment.**

APPENDIX.

Form of Warrant of Commitment.

To the (*here insert the officer's designation*).

WHEREAS the Governor in Council, for good and sufficient reasons, has seen fit to determine that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*) you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor in Council and the provisions of Regulation II of 1819.

Fort St. George, the

By order of the Governor in Council,

A.B.,

Chief Secretary to Government.

MADRAS REGULATION IV OF 1821.[1]

[THE MADRAS VILLAGE POLICE REGULATION, 1821.]

[15*th June*, 1821.

A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.

[2] **1 to 5.** [*Extension of authority of amins of police : duties of subordinate officers : inquiries by subordinate officers : powers of Heads of Police to punish certain petty thefts : powers to fine and award compensation.*] *Rep., Act XVII of 1862.*

Power to heads of villages to punish petty thefts.

6. *First.*—The powers granted to heads of villages, under clause first, section 10, Regulation XI of 1816, to punish trivial offences, are hereby extended, under the rules and limitations therein specified, to the punishment of petty thefts not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one rupee.

Report of punishment.

Second.—Heads of villages shall report to the head Police-officer of the district all cases in which they shall have exercised the power of punishment granted to them by clause first of this section.

7 to 10. [*Repeal of Reg. IX of* 1816, *s. 37 : Magistrate and Head of District Police relieved from recording evidence and submitting returns of punishments in petty cases : discretion in regard to the administration of oaths.*] *Rep., Act XVII of 1862.*

---

[1]The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, 1879, Pt. I, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 722. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavar Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari District in virtue of s. 2 (1) of Regulation I of 1909.

[2]It may be noted that s. 4 of this Regulation, which had been repealed by Act XVII of 1862, was revived by the Laws Local Extent Act, 1874 (XV of 1874), Sch. II; the section was, however, subsequently again repealed by Act XII of 1876, Sch., Part I. Section 6 is not referred to in the Second Schedule to Act XV of 1874.

MADRAS REGULATION IV OF 1822.[1]

[THE MADRAS PERMANENT SETTLEMENT (INTERPRETATION) REGULATION, 1822.]

[*12th July*, 1822.]

A Regulation declaring the true intent and meaning of [2][Regulation XXV of 1802, so far as it relates] to the rights of the actual cultivators of the soil.

Preamble. DOUBTS having occurred regarding the meaning and construction of the Regulations enacted for insuring the prompt realization of the rents due and payable by the actual cultivators of the soil, either to the officers of Government on the public account, or to zamindars or others entitled to receive the same by inheritance or purchase, or in virtue of special grants issued by the ruling authority on terms of a permanent or temporary settlement of the land-revenue ; it has become necessary for Government to declare that in passing those regulations it had no intention of authorizing any infringement or limitation of any established rights of any class of its subjects whatsoever, such rights being properly determinable by judicial investigation only. The Honourable the Governor in Council has therefore been pleased to pass the following Regulation.

Intent of Regulation XXV of 1802, declared. 2. It is hereby declared that the provisions of [2] [Regulation XXV of 1802] were not meant to define, limit, infringe or destroy the actual rights of any description of landholders or tenants ; but merely to point out in what manner tenants might be proceeded against, in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages, in the established Courts of Justice.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the scheduled districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, page 553.

[2] In the title the words and figures " Regulation XXV of 1802, so far as it relates " were substituted for the words and figures " Regulations XXV, XXVIII and XXX of 1802, so far as they relate," and in s. 2 the words and figures " Regulation XXV of 1802 " were substituted for the words and figures " Regulations XXV, XXVIII and XXX of 1802 " by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (1), and the Second Schedule.

MADRAS REGULATION VII OF 1822. [1]

[THE MADRAS NATIVE PUBLIC OFFICERS REGULATION, 1822.]

[12*th July*, 1822.]

A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may from time to time see fit to issue.

Preamble. [*Recites inconvenience of existing rules regarding removal of Native servants.*] *Rep., Mad. Act II of* 1869.

2. [*Repeal of certain enactments.*] *Rep., Mad. Act II of* 1869.

Rules to govern appointment and removal of public servants.

3. *First.*—The appointment and removal * * * [2] of the Native public servants in the revenue, commercial and other public departments under the Government shall be subject to such rules and orders as the Governor in Council in his discretion may from time to time see fit to issue.

Second.—[*Appointment and removal of law officers.*] *Rep. Act XI of* 1864.

MADRAS REGULATION IX OF 1822. [3]

[THE MADRAS REVENUE MALVERSATION REGULATION, 1822.]

[20*th December*, 1822.]

A Regulation for empowering Collectors to take primary cognizance of cases of malversation in

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

Cl. (1) of s. 3 of this Regulation was declared by the Laws Local Extent Act 1874 (XV of 1874), s. 4 and the Second Schedule—to be in force in the whole of the Madras Presidency except in the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the scheduled districts in Ganjam and Vizagapatam—*see* Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I. p. 553.

The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see* Fort St. George Gazette 1930, Pt. I, p. 553.

[2] Certain obsolete words have been repealed by Act XVI of 1874.

[3] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the scheduled districts in Ganjam and Vizagapatam—*see* Gazette of India, 1898, Pt. I, p. 869, and Fort St. George Gazette, *ibid*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see* For St. George Gazette, 1930, P t. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see* Fort St. George Gazette, 1930, Pt. I, p. 553.

revenue affairs; for prescribing the rules to be observed in such investigations, and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collectors' jurisdictions; and for providing for the admission and trial of appeals from the summary decisions of Collectors in such cases.

Preamble.

WHEREAS it is necessary to the security of the revenues of Government and to the welfare of the people, that Collectors should be empowered to make summary inquiry and decision in cases in which it may come to their knowledge that the public servants under their superintendence, or the officers of the village establishments, or any other persons in their behalf, or on any assumed or pretended authority, have embezzled the public money, or made unauthorized collections, or received bribes, or extorted money or other valuable consideration, and that Collectors should have power to enforce the judgments they may pass in such cases; and whereas the trial of appeals from such judgments cannot always be made with the necessary expedition, nor without public inconvenience by the regular Courts, and it is therefore expedient to provide that in certain cases Commissioners may be appointed to try such appeals * *[1] ; the Honourable the Governor in Council has therefore enacted the following rules * * * *.[2]

Collectors authorized to take primary cognizance of cases of malversation in revenue affairs.

2. *First.*—Collectors of the land-revenue are hereby authorized to take primary cognizance of all cases in which persons of any of the several descriptions hereinafter specified shall be accused or suspected of having wilfully committed, or allowed to be committed, any of the acts of malversation particularized in clause second of this section; and, on proof of the guilt of the accused or suspected persons, to inflict on them such punishments as by this Regulation the said Collectors are authorized to adjudge.

Specification of offences cognizable.

Second.—The several classes of the offences cognizable by Collectors under this Regulation are declared to be as follows, namely :—

Exacting or corruptly receiving money, etc., for performance of official acts.

1*st*, exacting or corruptly receiving, either directly or through the means or agency of any other person, any money or other valuable consideration for doing or procuring to be done any public or official act for which no such payment or gift could be lawfully demanded or received, or for the purpose, or under pretence, of obtaining or securing some undue gain, benefit or advantage to the giver of such money or other valuable consideration;

---

[1] Certain words, which are now obsolete, have been repealed by the Repealing and Amending Act, 1901 (XI of 1901).

[2] Certain obsolete words have been repealed by Act XII of 1876, s. 1.

Levying extra collections.

2nd, levying extra and unauthorized cesses or extra collections of any kind not sanctioned by the Regulations nor by the orders of Government, and intended for the private and personal use and profit of the persons levying or causing the same to be levied ;

Embezzling public money.

3rd,[1] embezzling or fraudulently misappropriating the public money ;

Making false entries in public accounts.

4th, making false or fraudulent entries in the public accounts or other records, either in regard to the receipt or expenditure of public money in any of the departments under the Collector's superintendence, or concerning the extent, value, classification or assessment of land ;

Falsifying, destroying, etc., public accounts.

5th,[1] knowingly and wilfully falsifying, destroying or concealing public accounts, or vouchers or documents of any kind immediately relating to the receipt or expenditure of the public money.

Persons subject to Collector's authority under Regulation.

Third.—The classes or descriptions of persons in regard to whom the Collectors shall have authority to exercise the powers of summary investigation, decision and punishment granted to them by this Regulation are declared to be as follows, namely :—

1st, all the Native servants of the Collector's public establishments ;

2nd, all head inhabitants, karnams and their gumastás, or persons doing the duty for them, and all other village-officers and servants within their respective collectorates ;

3rd, all persons not on the public establishment, whether being in the private service of a Collector, Sub-Collector or Assistant to a Collector, and pretending to act under his or their authority, or whether assuming the character of public officers, or acting or pretending to act under the authority or on behalf of revenue-servants or village-officers, who shall in any way interfere in the collection or disbursement of the public money, or who shall demand or receive money as public revenue, or as for revenue purposes, or shall exact or receive money or other valuable consideration under pretence of procuring some public act to be done, or some undue advantage to be given by public officers to the persons from whom such money or other valuable consideration shall have been taken.

Collectors empowered to summon witnesses and to require production of documents.

3. *First.*—Collectors shall have power to summon before them as witnesses all persons whose evidence may appear necessary to the due investigation of the cases referred to in this Regulation, as well for as against the accused or suspected persons, and to require the production of documentary evidence. The summonses to be issued by Collectors for this purpose shall bear their official seal and signature, and shall

[1] Extended to other public property by Act XXXVI of 1837.

specify the time and place of the witnesses' attendance ; and, if reference to documentary evidence be required, the summonses shall contain a requisition to the witnesses in whose possession they may be to bring such documents along with them.

Second.—[Procedure on refusal of witness to attend or give evidence.] Rep., Mad. Act II of 1869.

Witnesses residing in other zilas to be examined by Judge of zila in which they reside.

Third.—If any witness whose evidence is required by a Collector shall reside out of the jurisdiction of the zila to which the Collector is amenable, the Collector shall transmit written interrogatories to the Judge of the zila in whose jurisdiction the witness may reside, who shall procure, the written answers of the witness to such interrogatories, ***[1] and shall return the same to the Collector. Whenever a witness may be examined on interrogatories in conformity with the foregoing rule, whether on behalf of the Government or of the accused, the opposite party shall have the right of transmitting cross-interrogatories at the same time, and the answers of the witness thereto shall be taken and returned in like manner.

Cross-interrogatories.

Investigations under this Regulation to be summary.

Rules of procedure.

4. The investigations which Collectors are authorized to make under this Regulation shall be summary ***.[1] All documents produced in evidence shall be endorsed by the Collector with his signature or initials, and marked with the date of their production. A summary of the defence shall be recorded and the decision of the Collector, with a brief statement of the grounds on which it is formed, shall be entered on the proceedings.[2]

Sentence which Collectors may pass on persons convicted of certain offences.

5. [3]*First.*—When persons of any of the descriptions mentioned in clause third, section 2 of this Regulation, shall be convicted before a Collector, or an inquiry conducted under this Regulation, of any of the offences of the first, second or third class specified in clause second of that section, the Collector shall have authority to sentence them to pay any sum not exceeding twice the amount of the money ascertained to have been extorted, unduly received, embezzled or misappropriated.

Convicted persons to be kept in custody until judgment has been satisfied.

Second.—After a judgment has been passed by a Collector for the payment of money under the foregoing clause, the person against whom such judgment has passed shall be kept in custody until that judgment shall have been satisfied, first, in the Collector's kacharí, and afterwards, if necessary, in the zila jail as hereinafter provided.

---

[1] Certain obsolete words have been repealed by Act XII of 1876.

[2] As to powers of Board of Revenue, *see* Mad. Reg. III of 1823, s. 2, cl. 2.

[3] As to appeals from orders under this section and s. 6, *see* Mad. Reg. VII of 1828, s. 6.

Judgments of Collectors how executed.

Third.—The judgments of Collectors for the recovery of money under the preceding clause shall be executed in the same manner as decrees of the Courts of Adalat, by a warrant under the official seal and signature of the Collector, which shall specify the name of the person against whom the judgment has passed, the date of the judgment on the Collector's proceedings, and the amount to be levied. In the execution of this warrant the property of the defaulter shall be seized wherever, or in whose possession soever, it may be found. If property, which there is good reason to believe belongs to the defaulter, be claimed by any other person, the same shall nevertheless be attached by the officer charged with the execution of the warrant. If the property so attached be moveable, it shall be brought before the Collector, or, if not moveable, a full report thereof shall be made to the Collector who will hold a summary inquiry on the claim preferred, or refer such inquiry to a Panchayat. If the property be proved to belong *bona fide* to the defaulter, a particular account of its nature and value shall be entered on the Collector's proceedings, after which he shall order it to be sold in like manner as the rest of the property attached under the warrant of execution.

Persons convicted of certain other offences how punishable.

Fourth.—When any of the before-mentioned persons shall be convicted of any of the offences of the fourth or fifth class specified in clause second, section 2 of this Regulation, the Collector shall impose such fine, not exceeding five hundred rupees, as may appear reasonable ; and, in default of payment of such fine, he shall further sentence the offender to imprisonment for a period not exceeding twelve months, or until the said fine shall have been paid.

When Collectors shall make specific demand.

6. In cases where no examination of witnesses may be necessary—as where money actually delivered in charge to a public servant has been embezzled, or is not forthcoming when called for, and the amount embezzled has been clearly ascertained by reference to the public accounts of the kachari —Collectors shall make in writing a demand of the specific amount due by such public servant, and, on his refusing or neglecting to satisfy the demand, shall proceed to recover the amount by distraint and sale of the defaulter's property, and, if necessary, by imprisonment of the defaulter's person, in the same manner as for the recovery of arrears of revenue.

Further procedure in such cases.

When Collectors may call on suspected persons to give security for fulfilment of judgment.

7. Whenever a Collector shall be about to institute an inquiry under this Regulation, if he shall have good reason to believe that the accused or suspected person has concealed or collusively transferred, or is about to conceal or collusively transfer, his property, for the purpose of evading such order or judgment as may eventually be passed after such inquiry, the Collector is hereby authorized to call on such person to give security to such amount as he may consider sufficient to

provide for the fulfilment of the judgment that may be eventually passed; and, in default of good and sufficient security being given as required, he shall be authorized to attach the property of the accused or suspected person, and to hold the same in attachment until judgment shall have been passed in the said inquiry.

Procedure when security is not given.

The warrant of attachment to be issued in such cases shall follow the property of the accused or suspected person, wherever or in whose possession soever it may be found.

In the event of property seized under this section being claimed by any other person, the Collector shall proceed as directed in like cases in clause third, section 5 of this Regulation.

When Collector may issue proclamation requiring property of defaulters to be surrendered.

8. In all cases where an accused or suspected person has refused or neglected to deposit security, according to the Collector's requisition, as provided in section 7, and in all cases where a judgment has passed under the provisions of clause first, section 5 of this Regulation, as well as where a defaulter has failed to satisfy the public demand against him, made under the provisions of section 6 of this Regulation, it shall be competent to a Collector to issue a proclamation, requiring all persons holding property belonging to the defaulter to surrender the same to him within a specified period, not being less than fifteen days; after the publication of such proclamation, and after the expiration of such specified period, any person who may be convicted **[1] of having fraudulently concealed or collusively received such property shall be sentenced **[1] to pay a fine not exceeding three times the amount of the value of the property so fraudulently concealed or collusively received by such person, and to be imprisoned until such fine be paid.

Punishment for concealing such property.

The Criminal Judge shall levy the amount of the fine by the usual process, and, in the event of the full amount of the fine not being realized, shall commit the offender to confinement in the zila jail; provided, however, that the period of confinement under this section shall in no case exceed twelve calendar months.

When Collectors may issue search-warrants for discovery of papers or accounts.

9. If information **[1] shall be given before a Collector that revenue papers or accounts, or papers and accounts respecting frauds or embezzlements in the public revenue, have been fraudulently concealed and deposited in any particular premises, he shall be competent to issue warrants under his own official seal and signature, addressed to one or more public officers of his establishment, commanding search to be made on the premises for the discovery of such papers or accounts.

---

[1] Certain obsolete words have been repealed by Act XII of 1876.

Search-warrants how executed.

Search-warrants thus issued shall be executed between sunrise and sunset only, and, where practicable, in the presence of two or more respectable inhabitants of the village in which the house or place authorized to be searched may be situated ; a full and perfect list of all papers and other things whatsoever seized in virtue of such warrants shall be made out in duplicates on the spot ; both copies shall be signed by the officer executing the warrant, and by the inhabitants or witnesses present ; one copy of such list shall be given to the occupier of the house, or some person on his behalf, and the other shall be annexed to the warrant when returned to the Collector :

Provided, however, that nothing contained in these rules shall be construed to authorize any but females to enter the zenana or apartments of the women in houses belonging to those classes whose women do not ordinarily appear in public.

Property how sold in satisfaction of judgments of Collectors.

10. Whenever it may be necessary to sell property in satisfaction of an order of judgment of the Collector under the provisions of this Regulation, the sale shall be conducted by the Tahsíldár, or other public servant to whom the Collector may delegate that duty * * * *[1].

11. [*Judgment of Collector under s.* 4 *not to be executed till sanctioned by Board of Revenue.*] *Rep., Mad. Reg. III of* 1823.

Reimbursement of persons from whom money is unjustly received. Persons reporting exaction within two months to be repaid.

12. A discretionary authority shall be vested in Collectors, subject to the approval and sanction of the Board of Revenue, to pay to persons from whom money has been exacted or unjustly received the whole of such part of the sum recovered under the provisions of this Regulation as may appear proper on consideration of the circumstances of the case ; provided, moreover, that such persons shall be entitled in all cases to receive back whatever they may have so given to a public servant of Government, if they shall inform the Collector, Subordinate Collector or Assistant of such exaction or undue receipt of money within two months after its payment or delivery by the said informants.

Persons against whom inquiry is going on may be kept under restraint.

13. *First.*—Collectors are authorized to keep under restrain any persons against whom they may have instituted an inquiry under the provisions of this Regulation, either by placing peons over the dwelling-house of any such persons, to prevent their escape, or, if necessary, by confinement in the kacharí ; and, if judgment be given against such persons, then to continue the restraint until the amount adjudged has been paid by them, or the amount realized by sale of the property attached in satisfaction of the order or judgment.

---

[1] Certain obsolete words have been repealed by Act XII of 1876.

Second.—In the event of no property of a person against whom an order or judgment has been passed under this Regulation being forthcoming, or not sufficient to pay the amount due by him, the Collector shall forward the defaulter or offender to the Zila Court, and shall at the same time furnish the Government vakil of the said Court with instructions to present a motion to the Judge for his confinement until the amount due, which shall be distinctly stated in the said motion, shall have been discharged, or until the Collector shall again move the Court for his release. The Zila Judge shall receive such motion whether in or out of Court, and shall order the confinement of the party accordingly, and the Judge shall not discharge him from confinement except on his paying the full amount mentioned in the Collector's motion, or on application from the Collector. When defaulters may be imprisoned.

14. [*Appeals to Governor in Council.*] *Rep., Mad. Reg. VII of* 1828, *s.* 5.

15. *First.*—[*Appointment of Commission to revise Collector's proceedings.*] *Rep., Mad. Reg. VII of* 1828, *s.* 5.

Second.—A Commission appointed under this Regulation shall be vested generally with the same powers as Zila Courts under the Regulations in force, so far as such powers are necessary to the full and efficient discharge of the duties to be executed. The proceedings of the Commission are to be governed by the rules and maxims of justice, and in all points not expressly provided for in this Regulation the provisions contained in the general Regulations are to be observed as far as they may be consistent and applicable. Powers of Commission appointed under this Regulation.

Third.—The Commission shall call for and examine the proceedings and evidence recorded by the Collector on the summary inquiry which proceeded, and on a full consideration of the whole of the evidence shall decide whether the judgment or order passed by the Collector, and appealed from, was just and equitable, or, if otherwise, in what particulars it was erroneous; and shall order the repayment, with reasonable interest, of any sum which had been adjudged by the Collector to be due and payable, but which the Commission shall find not to have been so due, and shall order the repayment of such sum, with reasonable interest; and, if any property had been sold in satisfaction of such order or judgment of the Collector, the Commission, in revising the order or judgment, shall determine the amount of compensation to be paid on account of such property so sold; and shall further have authority to adjudge such reasonable costs and charges as may appear sufficient to compensate the complainant for any loss or injury sustained, or for unjust detention of the complainant, or for actual charges or expenses incurred. Commission how to proceed. How judgment to be given.

Commission to forward proceedings to Government.

Fourth.—When the proceedings shall have been closed, or as soon afterwards as circumstances will admit, the Commission shall forward the whole of the proceedings and evidence, with the final judgment on the case, to the Governor in Council.

Decisions of Commissions final. Government to determine how compensation shall be paid.

Fifth.—The decisions of Commissions under this Regulation shall be final. But it shall rest with the Governor in Council to determine, in the case of compensation being awarded under the foregoing clause, whether the amount shall be paid from the public treasury, or whether (as in cases where the proceedings of the Collector on the primary inquiry shall appear to have been unfair and unjustifiable, or where he may appear to have been culpably negligent in regard to the mode of disposing of the complainant's property) the whole or any part of such compensation shall be made good by the Collector who conducted the primary inquiry and the proceedings in execution of the summary judgment.

Holding property in attachment pending appeal. Release of appellant on giving security.

Sixth.—If the petition of appeal from a summary judgment of a Collector passed under this Regulation be presented before the property which may have been attached has been sold, such property, or any part that may still be unsold, shall be held in attachment pending the appeal; and where the property attached may be sufficient for the security of the amount adjudged by the Collector on the primary inquiry, or where the party appealing may give good and sufficient security for the ultimate fulfilment of the Collector's judgment, he shall be released from confinement pending the investigation by the Commission.

Decree of Commission how executed.

Seventh.—If the decree of the Commission confirm the judgment of the Collector, the decree shall be executed in like manner as the decree of a Court of Adalat; and, if the amount finally adjudged be not paid, the appellant and his sureties, where he may have given the security of others, shall be committed to the zila jail by an order of the Commissioner or Commissioners bearing his or their signature, and specifying the amount to be levied; and such order shall be a sufficient warrant to the Zila Judge to receive such persons into the zila jail, and to keep them there until the amount decreed against them be fully paid, or until the Collector, under the orders of the Board of Revenue or of Government, apply for their release.

Suits grounded on proceedings of Collector when receivable by Court.

[1] **16.** No suit grounded on the summary proceedings of a Collector under this Regulation, either in the form of an original complaint against such Collector, on account of any supposed injustice in conducting such proceedings, or of an appeal from his judgment, shall be received by any Court of Adalat, unless the plaint or petition is accompanied by the order referred to in

---

[1] The provisions of this section are supplemented by Mad. Reg. III of 1832, s. 2.

clause second, section 14 *of this Regulation,*[1] remitting the party complaining to seek his redress in the Courts of Adalat.

17 & 18. [*Powers of Criminal Judges and Courts of Circuit.*] *Rep., Act XII of 1876.*

19. [*Repeal of Regulation XXXIII of 1802.*] *Rep., Mad. Act II of 1869.*

MADRAS REGULATION III OF 1823.[2]

[THE MADRAS REVENUE MALVERSATION (AMENDMENT) REGULATION, 1823.]

[*8th August, 1823.*]

[3] A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.

WHEREAS the reference to the Board of Revenue required by section 11, Regulation IX of 1822, to be made by Collectors before any judgment passed by them under section 4 of that Regulation can be carried into execution, has been found inconvenient in practice and otherwise objectionable, and it is expedient that the said rule be rescinded, and that the Board of Revenue be vested with general power to suspend the execution of any judgment so passed which to them may seem improper; the Honourable the Governor in Council has been pleased to enact the following rules * * *.[4] Preamble.

2. *First.*—[*Repeal of Regulation IX of 1822, section 11.*] *Rep., Mad. Act II of 1869.*

Collectors' reports of judgments passed by them under Regulation IX of 1822.

Second.—Collectors will transmit such periodical or occasional reports of judgments passed under section 4 of the above-quoted Regulation as the Board of Revenue may direct. And it shall be competent to the Board of Revenue, whenever they may see fit, to order that any such judgment be not carried into execution, and to pass such further order on the case as to them may seem equitable and just.

3. [*Powers of Assistant and Subordinate Collectors under Regulation IX of 1822.*] *Rep., Mad. Reg. VII of 1828, s. 2.*

---

[1] For the words in italics now read " clause second, section 6 of Regulation VII of 1828"—*see* Mad. Reg. III of 1832, s. 2.

[2] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared not to apply to the East Godavari Agency by notification under sub-section (2) of section 52-A of the Government of India Act, 1919—*see Fort St. George Gazette*, 1930, Pt. I, p. 1392.

[3] This title was substituted for the original title by the Repealing and Amending Act, 1901 (XI of 1901)—s. 3 and the Second Schedule.

Certain obsolete words have been repealed by Act XII of 1876.

MADRAS REGULATION VII OF 1828.[1]

[THE MADRAS SUBORDINATE COLLECTORS AND REVENUE MALVERSATION (AMENDMENT) REGULATION, 1828.]

[*18th April, 1828.*]

A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts, and for facilitating proceedings under Regulation IX, 1822.

Preamble. WHEREAS the efficient discharge of the functions of Collectors requires that Subordinate and Assistant Collectors should be empowered to exercise within their divisions all the powers of the Collector, but subject, nevertheless, to their revision and correction; and further, that Collectors should have authority to refer for investigation, under certain restrictions, to their sarishtadárs and deputy sarishtadárs when absent from the huzúr kacharí, and also to their tahsíldárs within their respective tahsíldárís, certain of the cases cognizable by themselves under Regulation IX, 1822 ; and also that petitions of appeal against judgments and orders passed under the same Regulation should be preferred within a limited time, and should be finally decided upon by the Board of Revenue instead of the Governor in Council as at present ; therefore the Governor in Council has enacted this Regulation * * *.[2]

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The whole Regulation has been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—*see* Notification No. 1151, *Gazette of India,* 1879, Pt. I. p. 630, and *Fort St. George Gazette, ibid,* p. 723.

The whole Regulation, except s. 6, has been declared, by notification under s. 3 (*a*) of the same Act, to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India,* 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.* p. 666.

Section 6 of the Regulation has been declared, by notification under s. 3 (*b*) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India,* 1898, Pt. I, p. 872, and *Fort St. George Gazette,* 1898, Pt. I, p. 667.

The whole Regulation has been extended, by notification under s. 5 of the last-mentioned Act, to the Taluqs of Bhadrachalam and Rakapilli—*see* Notification No. 1150, *Gazette of India,* 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid,* p. 722.

The Regulation is in force in the Nugur taluk of the East Godavari District in virtue of section 2 (1) of Regulation I of 1909.

The Regulation has been declared by a notification under s. 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette,* 1930, Pt. I, p. 553.

[2] Certain obsolete words have been repealed by Act XII of 1876.

2. [*Repeal of Regulation III of 1823, s. 3.*] *Rep., Mad. Act II of 1869.*

Powers exercisable *ex officio* by Subordinate Collector in charge of division.

3. *First.*—A Subordinate or Assistant Collector [1] in charge of a particular division of a district shall *ex officio* have authority to exercise within the division under his charge all the powers granted to Collectors by the Regulations now in force, or that may be hereafter enacted, unless the contrary shall be expressly declared in any Regulation.

Authority of Collectors to delegate powers.

Second.—Collectors shall have authority to delegate, at their discretion, in writing under their official signature, any of the powers granted to them by any Regulation now in force, or that may be hereafter enacted, to any of their Subordinates or Assistants not in charge of a particular division of a district or to any of their Subordinates or Assistants in charge of a particular division beyond the limits of the division under his charge.

Controlling powers of Collectors.

Third.—The proceedings of Subordinate and Assistant Collectors acting under the preceding clauses shall be subject, in all cases, and in the fullest manner, to the superintendence, control and revision of the Collector, who shall have power either to direct, generally, that the proceedings of any of his Subordinates or Assistants shall be regularly submitted to himself before the decision, order or sentence is carried into execution, and to confirm, modify or annul them, or issue any further orders in the cases, as he may see fit; or in any particular case to direct that the decision, order or sentence of any of his Subordinates or Assistants shall not be carried into execution, and to pass such further orders as he may see fit.

Cases which Native officers may be employed to investigate.

4. *First.*—Collectors are empowered, at their discretion, to refer for investigation to their sarishtadárs and deputy sarishtadárs when detached from the huzúr kachari, and also to their tahsíldárs, within their respective tahsildaris, all cases of a petty nature cognizable by themselves under Regulation IX, 1822.

Their powers when so employed.

Second.—Native officers employed under the preceding clause shall have the same powers as are granted to Collectors by clause first, section 3, Regulation IX, 1822; but witnesses shall not be examined by them on oath.

Procedure when persons summoned by them do not attend, etc.

Third.—If any person duly summoned by them shall not attend as required, or attending shall refuse to give evidence, or if any person whose evidence is required shall res'de out of the limits of the collectorate, the Native officer employed shall report the circumstance to the Collector, who shall proceed thereupon in the manner required by clauses second and third, section 3, Regulation IX, 1822.

---

[1] For meaning of expressions "Subordinate Collector" and "Assistant Collector"—*see* Mad. Act VII of 1914, s. 4.

Their proceedings.

Fourth.—Native officers employed under this section shall take down in writing all the evidence given before them, and shall transmit their original proceedings to the Collector, who shall thereupon pass sentence, or order further evidence to be taken if he deem it necessary; provided always that Collectors shall not have authority to pass sentence against a party convicted, on an inquiry by any of the Native officers above mentioned of any of the offences of the first, second or third class specified in clause second, section 2, Regulation IX, 1822, adjudging him to pay a sum exceeding fifty rupees, or to impose a fine exceeding that amount upon a party convicted, on such an inquiry, of any of the offences of the fourth or fifth class specified in the same clause and section.

Restriction on Collectors' power to pass sentence.

5. [*Repeal of portions of Regulation IX of 1822.*] *Rep., Mad. Act II of 1869.*

Appeal against decisions of Collectors.

6. *First.*—Whenever a person against whom a judgment or order shall have passed under the provisions of section 5 or section 6, Regulation IX, 1822, shall conceive himself aggrieved by such decision, he shall be at liberty at any time within three months from the date of such judgment or order, to present to the Collector a petition of appeal addressed to the Board of Revenue, which petition the Collector shall forthwith forward to the Board. The petition shall be written on unstamped paper, and shall state the grounds on which the petitioner deems himself aggrieved and the redress or relief to which he considers himself entitled.

Boards of Revenue how to proceed on appeals.

Second.—On receipt of such petition the Board of Revenue, after making such inquiry as they may judge necessary, will either direct the relief prayed for by the petitioner to be granted, or will report the case for the orders of the Governor in Council, or will simply reject the petition by endorsement under the hand of their secretary, referring the party complaining to seek redress, if he thinks proper, in the established Courts of Adálat.

Procedure of Government in cases reported by Board.

Third.—In cases reported by the Board of Revenue for the orders of the Governor in Council, in which it shall appear to the Governor in Council that further investigation is necessary, he will appoint one or more commissioners to revise the original proceedings, and will order the commission to sit at such place as may appear to be most convenient; and the provisions of section 15, Regulation IX, 1822, shall be applicable to such commission.

7. [*Disposal of pending appeals.*] *Rep., Act XII of 1876.*

MADRAS REGULATION V OF 1829.[1]

[THE MADRAS HINDU WILLS REGULATION, 1829.]

[*25th August, 1829.*]

A Regulation for modifying section 16, Regulation III, 1802, and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law, according to the Authorities prevalent in the respective Provinces under this Government.

Preamble. WHEREAS[2] * * * * [3][clause second of section 16 of the Madras Administration of Estates Regulation, 1802,[4]] directs that, on the death of a Hindu leaving a will, his executors "are to take charge of the estate of the deceased and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country"; and whereas this [2] * * enactment is at variance both with the Hindu Law, according to the Authorities prevalent within these territories, and with the * * [2] obligation imposed on the Courts to administer justice to the Natives in the said matters according to their own laws, and it is therefore expedient that the same should be modified, the Governor in Council has therefore enacted this Regulation * * * *[5].

2. [*Repeal of Regulation III of 1802, s. 16, cl. 2, so far as it applies to Hindus.*] *Rep., Mad. Act II of 1869.*

Rules applicable to estates of Hindus dying and leaving wills. **3.** The rules contained in clauses third, fourth, fifth, sixth and seventh, section 16, Regulation III, 1802, * * *[5] respecting the estates of Hindus dying intestate, are hereby declared equally applicable to the cases of Hindus dying and leaving wills.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid*, p. 666. The Regulation has been extended by a notification under section 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazettee*, 1930, Part I, page 553. The Regulation has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Part I, page 553.

[2] Certain words and figures, repealed by the Repealing and Amending Act, 1901 (XI of 1901), s. 3, are omitted.

[3] These words and figures in square brackets were substituted for the words "clause second of the said section" by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 and the Second Schedule.

[4] Madras Regulation III of 1802.

[5] Certain obsolete words have been repealed by Act XII of 1876.

Wills of Hindus to be in conformity to Hindu law.

4. Wills left by Hindus within the territories subject to this Government shall have no legal force whatever, except so far as their contents may be in conformity with the provisions of the Hindu law, according to the Authorities prevalent in the respective Provinces under this Presidency.

MADRAS REGULATION I OF 1830.[1]

[THE MADRAS SATI REGULATION, 1830.]

[*2nd February, 1830.*]

A Regulation for declaring the practice of Sati, or of burning or burying alive the Widows of Hindus, illegal, and punishable by the Criminal Courts.

Preamble.

THE practice of sati, or of burning or burying alive the widows of Hindus, is revolting to the feelings of human nature ; it is nowhere enjoined by the religion of the Hindus as an imperative duty ; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed ; in some extensive districts it does not exist : in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations the Governor in Council, without intending to depart from one of the first and most important principles of the system of British government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act. Compare Ben. Reg. XVII of 1829.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.*, p. 666. The Regulation has been extended by a notification under section 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Part I, page 553. The Regulation has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Part I, page 553.

to establish the following rules, which are hereby enacted, to be in force * *[1] throughout the territories immediately subject to the Presidency of Fort St. George.

Sati declared illegal and punishable.

2. The practice of sati, or of burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

Zamindars, etc., responsible for immediate communication to police of intended sacrifice.

3. *First.*—All zamindárs, taluqdars or other proprietors of land, whether mālguzári or lakhiráj, all sadr farmers and under-renters of land of every description, all dependent taluqdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section ; and any zamindár, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and, in default of payment, to be confined for any period of imprisonment not exceeding six months.

Penalty in case of neglect.

Police how to act on receiving intelligence of intended sacrifice.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the head of police shall either repair in person to the spot, or depute one of his subordinate officers, accompanied by one or more peons of the Hindu religion, and it shall be the duty of the Police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts. Should the parties assembled proceed, in defiance of these remonstrances, to carry the ceremony into effect, it shall be the duty of the Police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it ; and, in the event of being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act when intelligence of sacrifice does not reach them until after it has taken place.

Third.—Should intelligence of a sacrifice, declared illegal by this Regulation, not reach the Police-officers until it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of

[1] Certain unnecessary words have been repealed by Act XII of 1876.

the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

Magistrate how to proceed against parties concerned.

4. *First.*—On the receipt of the reports required to be made by the heads of police under the provisions of the foregoing section, the Magistrate or Joint Magistrate of the jurisdiction in which the sacrifice may have taken place, shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial * *.[1]

Persons abetting sacrifice guilty of culpable homicide.

Second.—It is hereby declared that, after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindu widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, * *[1] according to the nature and circumstances of the case, and the degree of guilt established against the offender; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed to assist in putting her to death.

Discretion of Judge to admit to bail or not.

Third.—Persons committed to take their trial * *[1] for the offence above-mentioned shall be admitted to bail or not at the discretion of the Criminal Judge, subject to the general rules in force in regard to the admission of bail.

Court of Fauzdari Adalat may pass sentence of death in certain cases.

5. It is further deemed necessary to declare that nothing contained in this Regulation shall be construed to preclude the Court of Fauzdári Adálat from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindu widow[2] while labouring under a state of intoxication or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the pri oner, the Court may see no circumstances to render him or her a proper object of mercy.

---

[1] Certain unnecessary words have been repealed by Act XII of 1876.

[2] 'Woman' in Clarke's edition.

MADRAS REGULATION V OF 1831.[1]

[THE MADRAS STAMP PENALTIES REGULATION, 1831.]

[*24th May 1831.*]

A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.

1 to 6. [*Recital of inconvenience of recovery of certain fiscal penalties by civil suit only : penalties to be recoverable by criminal prosecution : procedure to be adopted by Magistrates : mode of levying penalties : trial ex party revision by Courts of Circuit and Court of Faujdári Adálat.*] *Rep., Mad. Act II of 1869.*

7. *First.*—[*Repeal of Regulation XIII of 1816, s. 19, cl. 2.*] *Rep., Mad. Act II of 1869.*

Recovery of fine for filing documents not written on prescribed stamp.

Second.—Whenever a petition, pleading or other document, which may not have been written on the prescribed stamp, shall be filed in any Court of Justice or in the office of any Collector or other public officer, or whenever it shall appear that a copy of any paper or proceeding shall have been furnished on paper not bearing the prescribed stamp, the Judge or Judges of the Court, the Collector or other public officer shall call upon the ministerial officer by whom such petition or other document was filed, or by whom such copy shall have been furnished, to show cause why the prescribed fine should not be imposed upon him ; and on his failure to show good cause shall forthwith proceed in the ordinary manner to levy from him the penalty prescribed.

8. [*Foregoing provisions not to be retrospective.*] *Rep. Mad. Act II of 1869.*

---

1 The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

Section 7, cl. 2, of this Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid* , p. 666. It has also been declared by notification under the same section to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency. *See Fort St. George Gazette,* 1930, Part I, page 553.

The Regulation has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency. *See Fort St. George Gazette,* 1930, Part I, page 553.

MADRAS REGULATION X OF 1831.[1]

[THE MADRAS SALE OF MINORS' ESTATES REGULATION, 1831.]

[*2nd September, 1831.*]

A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.

Preamble.

WHEREAS doubts have been entertained as to the liability of the estate of a minor not taken under the management of the Court of Wards, to be sold for arrears of revenue:; and whereas it is considered expedient, for the due protection of the property of minors and other incapacitated persons, that the provisions of section 20, Regulation V, 1804, should be extended to property of every description not subject to the jurisdiction of that Court, the following rules have been enacted * * *.[2]

Minor's property not to be sold for arrears accruing after his accession.

2. *First.*—From and after the date of the promulgation of this Regulation, no estate, the property of a minor, and descended to him by the regular course of inheritance, not under the charge of the Court of Wards, shall during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same.

Court of Wards may take charge of estates at any time during minority.

Second.—It shall be competent to the Court of Wards to assume charge of such estates at any time during the minority of the proprietor, notwithstanding they may have originally refrained from interfering.

3. [*Provisions extended to all property not subject to Court of Wards.*] *Rep. by the Guardians and Wards Act, 1890, VIII of 1890, s. 2 and Schedule.*

---

[1]The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth Schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Rampa Country—*see Gazette of India,* 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the taluqs of Bhadrachalam and Rakapilli—*see Gazette of India,* 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid,* p. 722. The Regulation is in force in Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909. The Regulation has been evtended by a notification under section 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette,* 1930, Part I, page 553.

[2] Certain unnecessary words have been repealed by Act XII of 1876.

MADRAS REGULATION III OF 1832.[1]

[THE MADRAS REVENUE MALVERSATION (AMENDMENT) REGULATION, 1832.]

[*2nd March, 1832.*]

A Regulation for limiting the period within which complaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adálat.

WHEREAS by clause first, section 6, Regulation VII, 1828, a petition of appeal to the Board of Revenue against a judgment or order passed under the provisions of section 5 or section 6, Regulation IX, 1822, is required to be preferred within the limited period of three months from the date of such judgment or order, but no limitation is prescribed as to the time within which a party who has preferred an appeal accordingly, and has been referred, under clause second of the same section, to seek redress in the established Courts of Adálat, may apply to such Courts; and it is deemed expedient to supply this omission, and to limit the time within which a complaint or appeal preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adàlat to the same period of three months, the Governor in Council has been pleased to enact the following Regulation, to be in force from the date of its promulgation. **Preamble.**

2. In modification of section 16, Regulation IX, 1822, it is hereby provided that no suit, either in the form of an original complaint, or of an appeal, shall be received in any Court of Adálat under that section, unless the plaint or petition is accompanied by the order referred to in clause second, section 6, Regulation VII, 1828, under the hand of the Secretary to the Board of Revenue, and is preferred within three months from the date of the delivery of the order. **Limitation o suits and appeals under section 16, Reg. IX, 1822.**

3. The date of the delivery of the order is to be certified by the officer delivering it by an endorsement on the petition on which the order is written. **Date of delivery to be certified.**

---

[1]The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid*, p. 666.

PART II.

LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL AND OF THE INDIAN LEGISLATURE IN FORCE IN MADRAS.

ACT No. XXXVI of 1837[1].

[The Madras Public Property Malversation Act, 1837.]

[20th November, 1837.]

Extension of jurisdiction of Collectors and their subordinates in cases of embezzlement, etc. to similar offences by persons of certain classes.

1. * * * [2]The jurisdiction vested in Collectors, Subordinate Collectors and Assistant Collectors, by Regulations IX of 1822 and VII of 1828 of the Madras Code, in cases of embezzlement of public money, and of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall extend to cases of the embezzlement of any public property or the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property, by any person of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822.

Extension of enactments relating to embezzlement, etc., to similar offences by persons of certain classes.

2. * * * *[3] All provisions of either of the said Regulations IX of 1822 and VII of 1828, which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of public property whatever, by persons of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822: **[3] all provisions of either of those Regulations, which apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property whatever, by persons of any of the said classes.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be force in the whole of the Presidency of Madras except the territories mentioned in the sixth Schedule to that Act,

It has also been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette*, 1898, Part I, p. 666. The Act has been extended by a notification under section 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—see *Fort St. George Gazette*, 1930, Part I, page 553. The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Part I, page 553.

[2] The words and figures "It is hereby enacted, that from the fifteenth day of December, 1837," were repealed by the Repealing Act, 1870 (XIV of 1870).

[3] The words "It is hereby enacted that" and the words "and that" in the second clause were repealed by the Repealing Act, 1874 (XVI of 1874) and the words "from the said day," which occurred immediately before the opening words of the section as it now stands, were repealed by the Repealing Act, 1870 (XIV of 1870).

ACT No. VII OF 1839.[1]

[THE MADRAS RENT AND REVENUE SALES ACT, 1839.]

[18th March, 1839.]

1. *[Repeal of Reg. XXVIII of 1802, s. 23.] Rep., Act XIV of 1870.*

Tahsildars empowered to sell property distrained.

2. [2]* * * All tahsildars within the territories subject to the Presidency of Fort St. George shall be vested with the powers of Commissioners for the sale of property distrained for arrears of rent or of revenue, and shall be subject to all rules and provisions to which by any law or regulation such Commissioners are subject.

Control of tahsildars in exercise of such power.

3. Provided always that in respect of the exercise of those powers tahsildars shall be subject to the control and superintendence of the Collector, and shall not be subject to the authority of the Zila Judge, except in the case of any judicial proceedings.

4. *[Their liabilities in exercise of same power.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Fees for selling property to be credited to Government.

5. Provided also that tahsildars shall not be entitled to any fee or commission for selling such distrained property ; but that all fees or commission which may be now lawfully taken by Commissioners for the sale of such distrained property shall be taken and carried to the account of Government.

Delegation of tahsildar's powers.

6. And it is hereby enacted that tahsildars shall have authority, subject to the orders of the Collector, to delegate the powers vested in them by the second section of this Act to any public servants placed under their authority ; and that the provisions of[3] [sections 3 and 5] of this Act shall apply to all public servants to whom those powers shall have been so delegated in the same manner as they apply to tahsildars.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It was extended, under s. 5 of the Scheduled Districts Act, 1874, to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 872; and to the Scheduled Districts in East Godavari except the Nugur Taluq—*see ibid*, 1910, Pt. I, p. 1161.

[2] The words " And it is hereby enacted that from the said day " were repealed by the Repealing Act, 1873 (XII of 1873).

[3] The words and figures in square brackets have been substituted for the words " the three last preceding sections " by the Amending Act, 1891 (XII of 1891).

ACT No. XXIV OF 1839[1].

[THE GANJAM AND VIZAGAPATAM ACT, 1839.]

[2nd October, 1839.]

An Act for the administration of justice and collection of the revenue in certain parts of the districts of Ganjam and Vizagapatam.

1. [*Repeal of Act XXIII of 1836.*] *Rep., by the Repealing Act, 1870 (XIV of 1870).*

Exemption of districts from certain rules.

2. [2] * * The operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the revenue, shall cease to have effect, except as hereinafter mentioned, within the undermentioned tracts of country at present included in the districts of Ganjam and Vizagapatam :—

IN THE DISTRICT OF GANJAM.

Zamìndàrìs.

Paluru.
Humma.
Biridi.
Kallikota.
Pratapagiri.
Mohari.
Vijayanagaram.
Hathagada.
Brahmanorachi.
Chikati.
Mandasa.
Surangi.
Jarada.
Jalantra.
Budarasangi.
Dharakota.
Bodagada.
Sherugada.
Tarla.
Parlakimidi.

Amàni Estates.

Gumsara.
Surada.
Aska.
Pornary (*leg.* Komari ?).
Kurla.

IN THE DISTRICT OF VIZAGAPATAM.

Ancient Zamìndàrìs.

Vijayanagaram.
Bobbili.

Hill Zamìndàrìs.

Jayapuram.
Kurubham.
Sangamvalasa.
Chemudum.
Pachipenta.
Andhram.
Sarvapalli-bhimavaram.
Saluru.
Madugula.
Belgam.
Merangi.

Under Amàni.

Palakonda.
Golakonda.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

[2] The words " And it is hereby enacted, that from and after the said first day of December, 1839," were repealed by the Repealing Act, 1874 (XVI of 1874).

3. * * * * [1] The administration of civil and criminal justice (including the superintendence of the Police), and the collection and superintendence of the revenues of every description within the tracts of country specified in the foregoing section which are now included in the district of Ganjam, shall be vested in the Collector of Ganjam, and within those which are now included in the district of Vizagapatam in the Collector of Vizagapatam, and shall be exercised by them respectively as Agents to the Governor of Fort St. George.

Administration of civil and criminal justice in those districts.

4. * * * * * [1] It shall be competent to the Governor in Council of Fort St. George, by an order in Council, to prescribe such rules as he may deem proper for the guidance of such Agents, and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the Agents in civil suits shall be final, and in what suits an appeal shall lie to the Sadr Adálat, and to define the authority to be exercised by the Agents in criminal trials, and what cases he [2] shall submit for the decision of the Faujdári Adálat.

Power to prescribe rules for Government Agents.

5. * * * * [1] Upon the receipt of any criminal trials referred by either of the Agents under the rules which may be hereafter prescribed by the Governor in Council, the Faujdari Adálat shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Judge on circuit.

Judgment in criminal trials referred by Agents to Faujdari Adalat.

6. * * * * [1] Upon the receipt of any appeal from a decree of either of the Agents, under the rules to be prescribed as aforesaid, the Court of Sadr Adálat shall proceed to try and determineit in the same manner as appeals from the Provincial Courts.

Appeals to Sadr Adalat from decrees of Agents.

7. * * * * [1] Each of such Agents as aforesaid shall have the power of making commitments by warrant under his hand which is possessed by the Governor of Fort St. George in Council by virtue of Regulation II of 1819 of the Madras Code : Provided, that the third * * [3] fifth, sixth and seventh sections of that Regulation shall remain in force and be applicable to commitments under this Act : Provided also that, in every case in which either of such Agents shall make any such commitment, he shall transmit immediately a report to the Governor in Council of Fort St. George for his orders.

Commitments by Agents.

Report of commitments.

8. * * * [1] It shall be competent to the Governor in Council of Fort St. George, by an Order in Council, to make, from time to time * * * * [4] such alterations in the

Power to alter limits of tracts.

---

[1] In ss. 3 to 8 the words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (XVI of 1874).

[2] *Sic.* Read "they."

[3] The word "fourth" was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

[4] The words "with the previous sanction of the Governor General of India in Council" were repealed by Mad. Act I of 1865.

limits of the tracts within the aforesaid districts placed under the jurisdiction of the said Agents, respectively, as he may deem expedient. [1]

ACT No. VI of 1844.[2]

[The Madras Inland Customs Act, 1844.[3]]

[*16th March,* 1844.]

An Act for * [4] the levy of * * [4] inland customs-duties, * * * * * [4] within the territories subject to the Government of Fort Saint George.

1 to 5. [*Repeal of all Madras Regulations imposing inland transit town duties, and certain sea-customs duties : saving of tolls : duties on imports into and exports from Madras Ports.*] *Rep., by the Repealing Act, 1868 (VIII of 1868).*

6. [*Duties on goods passing by land into or out of foreign European settlements on the line of coast within the Madras Presidency.*] *Rep., by the Repealing Act,* 1874, *XVI of* 1874.

7. [*Power of Governor in Council to declare territories of Native Chiefs to be foreign territory.*] [5] *Rep., by the Land Customs (Madras and Bombay) Act,* 1869 (*XI of* 1869).

---

[1] For instance of such an alteration, *see Fort St. George Gazette,* 1863 p. 946.

[2] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4, and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

So far as regards the Madras Presidency, the unrepealed provisions of this Act relating to the levy of duties and to dutiable goods apply to duties levied, and goods liable to duty, under s. 5 of the Indian Tariff Act, the Indian Tariff Act, 1894 (VIII of 1894), s. 8.

[3] The operation of this Act is barred in certain cases by section 10 of the Land Customs Act, 1924 (Act XIX of 1924).

[4] The words "abolishing," "transit or" and "for revising the duties on imports and exports by sea, and for determining the price at which salt shall be sold for home consumption" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

[5] *See* s. 5 of the Indian Tariff Act, 1894 (VIII of 1894).

8. * * * * [1] For the levy of duties of customs as above provided on goods exported by land to, or imported by land from, such foreign territories, customs-chaukís may be established at such places as may be determined by the said Governor in Council, and every officer at every such chauki shall have power to detain goods passing into or out of any such foreign territory, and to examine and ascertain the quantities and kinds thereof; and such goods shall not be allowed to pass across the frontier-line out of or into the territory of the East India Company, until the owner or person in charge thereof shall produce and deliver a certificate showing that the customs-duty leviable thereupon has been paid in full.

Customs-chaukis for levy of customs-duties on certain goods. Powers of officer at chaukis. Goods not to pass frontier line without certificate.

9. * * * * [1] It shall be lawful for the said Governor in Council to appoint such officers as he may think fit to receive money on account of customs-duties, and grant certificates of the payment thereof, and such a certificate being delivered to any chaukí-officer shall entitle goods to cross the frontier into or out of the East India Company's territories, provided that the goods correspond in description with the specification thereof contained in such certificate, and that the certificate shows the entire amount of duty leviable on those goods to have been duly paid; and, if upon examination the goods brought to any chaukí be found not to correspond with the specification entered in the certificate presented with the same, the difference shall be noted on the face of the certificate, and, if the payment of duty certified therein shall not cover the entire amount of duty leviable on the goods as ascertained at such examination, the goods shall be detained until a further certificate for the difference shall be produced.

Appointment of officers to collect duties and grant certificates of payment.

Procedure when goods found not to correspond with certificate.

10. * * * * [1] The said Governor in Council shall give public notice in the official Gazette of the Presidency of Fort Saint George of the appointment of every officer appointed to receive customs-duties on goods crossing the land-frontier of the said foreign territories, and the officers so appointed shall, on receipt of money tendered as customs-duty, be bound to give to any merchant or other person applying for the same a certificate of payment, and to enter therein the specification of goods, with the values and description thereof, according to the statement furnished by the person so applying, provided only that the proper duty leviable thereupon, according to the descriptions and values stated, be covered by the payment made.

Appointments of officers to be notified.

Officers bound to grant certificates on receipt of proper duty.

11. * * * *[1] No certificate shall be received at any chaukí that shall bear date more than thirty days before the date when the goods arrive at the chaukí : Provided, however, that any person who has taken out a certificate from any

Ante-dated certificates not received.

---

[1] The words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (XVI of 1874).

authorized receiver of customs duties shall at any time within the said period of thirty days, on satisfying such receiver that such certificate has not been used, and on delivering up the original, be entitled to receive a renewed certificate with a fresh date, without further payment of duty.

When fresh certificate to be granted.

Notification of routes by which goods may cross frontier.

12. * * * * [1] It shall be lawful for the said Governor in Council to prescribe by public notice in the official Gazette of the Presidency of Fort St. George by what routes goods shall be allowed to pass into or out of any such foreign territory *as is described in sections* 6 *and* 7 *of this Act* [2]: and, after such notice shall be given, goods which may be brought to any chaukí established on other routes or passes than those so prescribed shall, if provided with a certificate, be sent back, and if not provided with a certificate shall be detained, and shall be liable to confiscation by the Collector of Customs, unless the person in charge thereof shall be able to satisfy the said Collector that his carrying them by that route was from ignorance or accident.

Goods thereafter brought by other routes liable to detention or confiscation.

Goods crossing clandestinely to be confiscated.

13. * * * * [1] Goods which may be passed, or which an attempt may be made to pass, across any frontier guarded by chaukís between sunset and sunrise or in a clandestine manner, shall be seized and confiscated.

[Provided that this section shall not apply to the passing (otherwise than in a clandestine manner) between sunset and sunrise of all or any specified class of goods across any frontier by any specified route, if the Government has, by notification in the official Gazette, permitted the passing of such goods across such frontier by such route.] [3]

Penalty for permitting goods to cross without certificate, or by prohibited route.

14. * * * * [1] Any chaukí-officer who shall permit goods to pass across the frontier when not covered by a sufficient certificate, or who shall permit goods to pass by any prohibited route, shall be liable, on conviction before the Collector of Customs, to imprisonment for a term not exceeding six months, and to a fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

Penalty for vexatiously injuring or wrongfully detaining goods.

15. * * * * [1] If any chaukí-officer shall needlessly and vexatiously injure goods under the pretence of examination, or in the course of his examination, or shall wrongfully detain goods for which there shall be produced a sufficient certificate, such officer shall, on conviction before the Collector of Customs, or before any Magistrate or Joint Magistrate, be

1 The words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (XVI of 1874).

2 *i.e.*, (1) Foreign European settlements situated on the line of coast within the limits of the Presidency of Fort St. George, and (2) territory of certain Native Chiefs not subject to the jurisdiction of the Courts and Civil Authorities of that Presidency, and declared by the Governor in Council, by notice in the Gazette, to be foreign territory—*see* s. 5 of the Indian Tariff Act, 1894 (VIII of 1894).

3 The proviso to s. 13 was added by the Madras Inland Customs (Amendment) Act, 1893 (II of 1893).

liable to imprisonment for a term not exceeding six months, and to fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

16. [*Duty on goods imported by sea from foreign European settlements and certain Native States.*] *Rep. by the Land Customs (Madras and Bombay) Act,* 1869 (*XI of* 1869).

17 to 41. [*No dutiable goods to be exempted except under special order of Government: certain provisos: valuation of goods: goods to be landed only at gazetted ports: manifests of cargo; penalties: obligation to receive Customs-officers on board: goods landed to be covered by boat-notes: liability to confiscation in certain cases.*] *Rep. by VI of* 1863, *s.* 2, *except so far as they relate to duties leviable on salt and opium.*

42. [*Repeal.*] *Rep. by the Repealing Act,* 1868 (*VIII of* 1868).

43. [*Price of salt in Madras.*] *Rep. by the Salt Act,* 1877 (*XVIII of* 1877).

44 & 45. [*Power of Governor-General in Council to remit such price: duty-paid salt may be landed at any port.*] *Rep. by the Salt (Madras and Bombay) Act,* 1869 (*XXIV of* 1869), *s.* 1.

46 to 68. [*Periods allowed for loading and discharging cargoes: portclearances: duty on re-landed cargoes: rules regarding coasting and country craft: trans-shipped goods: powers of Collector of Customs: Customs-officers amenable in certain cases to Civil Courts: penalties: powers of Governor in Council.*] *Rep. by the Consolidated Customs Act,* 1863 (*VI of* 1863), *s.* 2.

SCHEDULES[1] A AND B.

Rep. by the Indian Tariff Act, 1871 (*XIII of* 1871].

---

[1] Schedules A, B and C were repealed by the Repealing Act, 1868 (VIII of 1868), Schedules A and B were again repealed by the Indian Tariff Act, 1871 (XIII of 1871).

ACT No. X OF 1849.[1]

[THE MADRAS REVENUE COMMISSIONER ACT, 1849.]

[*26th May* 1849.]

An Act for appointing a Commissioner of Revenue at Madras.

Preamble. WHEREAS it is expedient that the Governor of Fort St. George in Council should be empowered to depute a Member of the Board of Revenue to perform in any of the districts of that Presidency all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively ; It is enacted as follows :—

Power to depute Member to perform duties of Board. 1. The Governor of Fort St. George in Council may, from time to time whenever he shall see fit, depute a Member of the Board of Revenue to perform alone, in any of the districts of that Presidency, all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively.

Powers of Member so deputed. 2. When a special commission shall be given to a Member of the Board of Revenue under this Act, the Member of the Board named therein shall, by virtue thereof, be empowered to exercise, within the limits of his commission, all the powers and duties which by law are vested in the Board of Revenue collectively, without exception, or subject to any exceptions or restrictions which shall be prescribed in such commission ; **Enactments applied to Commissioner.** and all Regulations and Acts concerning the Board of Revenue shall be deemed to apply to the said Commissioner within the limits of his commission, and with regard to all things concerning the revenues of the district included in it, so far as is necessary to give full effect to his commission and to this Act.

Publication of commission, and revocation thereof. 3. Every such commission shall be published in the *Fort St. George Gazette*, and the Commissioner shall enter on his office from the date of such publication ; and in like manner the revocation or other determination of any such commission shall be published in the *Fort. St. George Gazette.*

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Act has been declared by a notification under section 3, clause (*b*) of the Scheduled Districts Act, to be not in force in the Butcharti and Guditeru muttas of the East Godavari Agency—*see Fort St. George Gazette*, 1930, Part I, page 553. The Act has been declared not to apply to the East Godavari Agency, by notification under sub-section (2) of section 52-A of the Government of India Act—*see Fort St. George Gazette*, 1931, Part I, page 99.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (XIV of 1874), it has been declared that the Act is not in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1898, Pt. I, p. 872.

4. The correspondence and other documents belonging to any such commission shall be deposited, on the determination thereof, in the office of the Board of Revenue, and shall be deemed records of the said Board. Deposit of records.

ACT No. XII OF 1851.[1]

[THE MADRAS CITY LAND-REVENUE ACT, 1851.]

[*14th November* 1851.]

An Act for securing the Land-revenue of Madras.

WHEREAS it is expedient that the land-revenue accruing due to the East India Company at Madras [2] [within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras], should be ascertained and collected in as summary a manner as in other parts of the territories under the Government of the East India Company ; It is enacted as follows :— Preamble.

1. All assessable lands not the property of the East India Company [2] [within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras], of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rates customarily charged upon lands of a similar description in the neighbourhood according as they may be situated respectively within or without the walls of Black Town. Assessment of unassessed lands in Madras Town.

2. Lákhiráj tenures of land in Madras, of which uninterrupted possession has been held under alleged grants, exempt or partially exempt from assessment for sixty years, shall be valid; no other lákhiráj tenures of land in Madras shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government. Lakhiraj tenures.

3. The Collector of Madras shall determine the rate of assessment to be laid on assessable land under section 1 of this Act, with reference to the rate assessed upon other land of a similar description in the neighbourhood, subject to an appeal to the Board of Revenue, to be made within six months from the notification by the Collector of the assessment fixed by him. The decision of the Board of Revenue upon such appeal shall be final. Rate of assessment. Appeal.

4. The Collector may order any assessable land or land already assessed or charged with a rent payable to the East India Company, to be measured, for the purpose of determining Power to order measurement.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

The Land-revenue (Madras Town) Act, 1867 (Mad. Act VI of 1867), to be read with, and taken as part of, this Act—*see* s. 33 of that Act.

[2] The words within brackets were substituted for the words " within the limits of the Town of Madras as defined in section 12, Regulation II of 1802 of the Madras Code " by the Amending Act, 1891 (XII of 1891).

the amount of assessment to be imposed, or in the case of land already assessed or charged with a rent, for the purpose of ascertaining whether the actual dimensions, and the dimensions upon which the amount of assessment or rent was calculated, correspond.

Abatement for land assessed beyond actual dimensions.

5. Whenever, upon the measurement of any land under the preceding section, it shall be found that the dimensions upon which the amount of assessment or rent was calculated exceed the actual dimensions, a proportionate abatement shall be made for the excess, on the demand of the party entitled to claim it.

Charge for land in excess of quantity assessed.

6. On the other hand, when the actual dimensions exceed the dimensions upon which the amount of assessment of rent was calculated, the excess shall be charged at the same rate as the rest of the land, the possession being left undisturbed :

Saving of right of holder from whom excess is usurped.

Provided that, when it shall appear that the excess has been caused by the surreptitious usurpation of ground belonging to another tenure, the act of the Collector in assessing it shall not prejudice the holder of such other tenure in any effort he may make to recover the ground usurped from it.

Appeal against extra assessment.

An appeal shall lie to the Board of Revenue against any extra assessment or additional rent charged by the Collector for excess by measurement under this section, if preferred within six months from the date of the Collector's order. Upon such appeal the decision of the Board of Revenue shall be final.

7. [*Recovery by distress and sale.*] *Rep. by the Land-revenue* (*Madras Town*) *Act,* 1867 (*Mad. Act VI of* 1867), *s.* 2.

Deduction from landlord's rent, of payment by under-tenant.

8. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

Priority of Government claim for land-revenue.

9. The claim of the East India Company for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

Deposit of amount of disputed claim.

10. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

Limitation of claim to arrears.

11. Arrears of rent or revenue due to the East India Company are recoverable within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable, or his agent, and not afterwards.

Inquiry into claim to hold land rent-free, and report to Board.

12. When a claim to hold land lákhiráj, or free of assessment, shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings in the case for the consideration of the Board of Revenue.

If the Board of Revenue are satisfied of the validity of the claim, they shall make an order accordingly, and such order shall be final. If they are not satisfied of the validity of the claim, they shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts, as herein provided. **Procedure thereupon.**

13. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty shall, on conviction before a Magistrate of the town of Madras, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common gaol for a term not exceeding six months, or until the fine is sooner paid. **Penalty for obstructing Collector or his subordinates.**

14. The Collector may punish any contempt committed in his presence in open kachari or office, by fine not exceeding two hundred rupees, and in default of payment, by imprisonment in the common gaol for a term not exceeding one month. **Collector's power to punish contempts.**

From every such order of fine or imprisonment an appeal shall lie to the Board of Revenue, whose decision shall be final. **Appeal from his orders.**

15. The Collector shall act in the execution of this Act under the usual control of the superior revenue-authorities. **Control of Collector.**

16. The ground-rents payable to the East India Company from lands in Madras are revenue within the meaning of the Act of Parliament, 21 Geo. III, cap. 70[1]; and the Supreme Court of Judicature established by Royal Charter at Madras has not any civil jurisdiction concerning the said ground-rents, or concerning anything ordered or done in the assessment or collection thereof. **Exemption of questions relating to ground-rents from civil jurisdiction of Supreme Court.**

17. All actions concerning any trespass or injury committed by any Revenue-officer, acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any moneys paid to, any Revenue-officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company in the Zila of Chingleput, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein reside, within the limit of the town of Madras, and every such action shall be brought within six months after the cause of action arose, and not afterwards. **Jurisdiction of civil Courts in Chingleput in suits against Revenue-officers.** **Limitation.**

18. The words "Collector" and "Board of Revenue" used in this Act shall be taken to mean any person or persons lawfully appointed to exercise the powers vested in the Collector and Board of Revenue, respectively, under this Act. **"Collector" and "Board of Revenue" defined.**

---

[1] The East India Company Act, 1870 (21 Geo. 3, c. 70), printed, Collection of Statutes relating to India.

ACT No. XXIV OF 1854.

[THE MALABAR WAR-KNIVES ACT, 1854.][1]

[28*th October* 1854.]

An Act to prohibit the possession of certain offensive weapons in Malabar.

Preamble.

WHEREAS it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar, in the Presidency of Fort St. George ; It is enacted as follows :—

Use of war-knives prohibited.

1. The use of the ayudha katti or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar. * * * [2].

Fine for possessing, purchasing, etc., war-knives.

2. * * * [3] Any person who shall be found in possession of any ayudha katti or war-knife or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, any ayudha katti or war-knife or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both ; and the said war-knife or weapon shall be confiscated.

Power to search for war-knives.

3. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police-officers, acting under his warrant, in any house or other place in which any ayudha katti or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act ; and any such ayudha katti or war-knife which shall be found may be seized and confiscated.

It shall also be competent to the Magistrate, at his discretion, to delegate to any of his European Assistants the powers conferred by this section.

Penalty for resisting search.

Any person who shall resist or oppose such search or seizure, or forcibly withstand any Police-officer charged with such warrant, shall be liable to the same penalties as if such person had opposed or resisted the execution of a warrant for the search after stolen goods.

---

[1] The short title was given by the Repealing and Amending Act, 1901 (XI of 1901).

[2] The words *from* " and every person " *to* the end of the section, which provide for the surrender of weapons at a certain date, were repealed by the Repealing Act, 1870 (XIV of 1870).

[3] The words " After such date " in s. 2 were repealed by the Repealing Act, 1870 (XIV of 1870).

ACT No. VII OF 1857.[1]

[THE MADRAS UNCOVENANTED OFFICERS ACT, 1857.]

[1st *May* 1857.]

An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.

Preamble.

WHEREAS the exigencies of the public service require the more extended employment of uncovenanted officers in the Revenue and Judicial Departments in the Presidency of Fort St. George ; It is hereby enacted as follows :—

Power to appoint uncovenanted officers.

1. The Governor of Fort St. George in Council may appoint, in any zila or district within the said Presidency, one or more uncovenanted Deputy Collectors *and Deputy Magistrates* with the powers hereinafter mentioned.

2. [*Official oath or declaration.*] *Rep. by Indian Oaths Act,* 1873 (*X of* 1873).

3.[2] [*Duties and powers of Deputy Collector.*] *Rep. by Mad. Act, VII of* 1914, *s.* 2.

4. [*Duties and powers of Deputy Magistrates.*] *Rep. by Act XVII of* 1862.

One officer may hold both offices.

5. Nothing in this Act contained shall be held to disqualify any uncovenanted officer appointed under this Act from holding at the same time the offices of Deputy Collector *and Deputy Magistrate.*

Rules regarding dismissal of Deputy Collectors.

6. A Deputy Collector *or Deputy Magistrate* appointed under this Act shall not be dismissed from office without the sanction of the Governor in Council. Whenever there may be reason to believe that a Deputy Collector *or Deputy Magistrate* is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the Collector or Magistrate through the proper channel for the consideration and orders of the Governor in Council, who shall be competent to suspend such Deputy Collector *or Deputy Magistrate* and order a further inquiry into his conduct, or to direct his immediate dismissal, as may appear just and proper.

---

[1] The short title, "The Madras Uncovenanted Officers Act, 1857" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Act VII of 1857 is repealed, so far as it relates to Deputy Magistrates, by the Repealing Act, 1873 (XII of 1873). It was declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 4.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (XIV of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*See Fort St George Gazette,* 1898, Pt. I, p. 667, and *Gazette of India,* 1898, Pt. I, p. 872.

[2] As to placing of Deputy Collectors in charge of divisions of districts—*see* Mad. Act VII of 1914.

ACT No. I OF 1858.[1]

[THE MADRAS COMPULSORY LABOUR ACT, 1858.]

[*20th January* 1858.]

An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.

Preamble.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks rivers and canals, and of anicuts and other like works ; and it is necessary for the common good to make it obligatory on persons of the labouring classes, when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly ; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on vi lage-communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage ; It is enacted as follows :—

Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.

Whenever it shall appear to the officer in charge of any tank, river or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work, or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the labouring classes in such village

---

[1] The short title, ' The Madras Compulsory Labour Act, 1858 " was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874) section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (XIV of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*See Fort St. George Gazette,* 1898, Pt. I, p. 667, and *Gazette of India,* 1898, Pt. I, p. 872. The Act has been extended by a notification under section 5 of the Scheduled Districts Act to the Vizagapatam Agency and the Bhadrachalam and Nugur taluks of the Godavari Agency—*See Fort St. George Gazette.* 1930, Pt. I, p. 553. The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*See Fort St. George Gazette,* 1930, Pt. I, p. 553.

or villages to co-operate in the work necessary for preventing or repairing the breach, as the case may be.

In the absence of the said officer, it shall be lawful for the tahsíldár of the taluq to make such requisition in his stead.

And if neither the said officer nor the táhsíldar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion, to call upon the labourers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the labourers of their villages, to co-operate in the work necessary for preventing or repairing the breach.

Punishment for refusing or neglecting to comply with such call.

2. Any male person of the labouring classes being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

Rate of remuneration.

3. Every person who shall be employed on such work, under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work and, if he is required to work at night, at double such rate.

Mode of payment.

4. Payment shall be made to the labourers from the public treasury ; and, if the labourers shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land-revenue.

Recovery of advances from private persons.

Requisition for the supply of materials, etc., from villagers.

[1] [**5.** It shall be lawful for heads of villages, on the requisition of the officer in charge of such works, as aforesaid, or in his absence, on the requisition of the táhsíldar or in case of emergency when neither such officer nor the táhsíldar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, earth, stone, trees and leaves, bamboos, straw, gunny bags and the like, necessary for preventing or repairing breaches in the embankments of tanks, rivers and canals, and to remove or seize, and, if necessary, to cut down such materials wherever they may be found, giving receipts for them in writing ; such materials shall be paid for from the public treasury at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting down of any such materials, compensation shall be made for such damage, the amount of which compensation shall, in case of

---

1 This section was substituted for the original by section 2 of the Madras Compulsory Labour (Amendment) Act, 1935 (Madras Act IX of 1935).

dispute, be determined in the same manner as amounts payable under section 6. When the work for which such materials are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land revenue are recoverable.]

Liability of person refusing to contribute labour to work usually executed by village community.

6. Whenever by local custom any work for the purpose of irrigation or drainage, or connected therewith, is usually executed by the joint labour of a village-community, any person bound by such custom to contribute labour to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the táhsíldar or other superior Revenue-officer, shall be liable to pay a sum equal to twice the value of the labour which he is bound to contribute.

Mode of determining amount payable.

The amount so payable shall, in case of dispute, be determined summarily by a Village * *[1] Panchayat assembled by order of the Collector through the Village * * [1] Munsif according to the rules for assembling such Panchayats prescribed in Regulations V and VII of 1816.[2]

Recovery.

Such amount shall be payable on demand; and, on nonpayment, the same may be recovered by the same means by which arrears of land-revenue are recoverable.

Appropriation.

All sums paid or recovered under this section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong.

ACT No. XX OF 1859.[3]

[THE MOPLAH OUTRAGES ACT, 1859.]

[31*st August* 1859.]

An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.

Preamble.

WHEREAS in the district of Malabar in the Presidency of Fort St. George murderous outrages have been frequently committed by persons of the class called Máppillas, [4] the offenders in such outrages intending therein to sacrifice their

---

1 The words "or District" were repealed by the Repealing Act, 1874 (XVI of 1874).

2 Mad. Reg. V of 1816 has been repealed by the Madras Village Courts Amendment Act, 1919 (Madras Act II of 1920) and Mad. Reg. VII of 1816 has been repealed by Act XVI of 1874.

3 The short title, "The Moplah Outrages Act, 1859" was given by the Repealing and Amending Act, 1901 (XI of 1901).

Act XX of 1859 is continued in force by the Moplah Outrages Act Continuance Act, 1869 (Mad Act VII of 1869).

4 "Mappilla," lit. the son (*pilla*) of his mother (*ma*), as sprung from the intercourse of foreign colonists, who were persons unknown, with Malabar women."—WILLSON.

own lives ; and the general law of the country is not adequate to suppress such outrages ; It is enacted as follows :—

1. [*Repeal of Acts XXIII of* 1854 *and V of* 1856.] *Rep. by the Repealing Act*, 1870 (*XIV of* 1870).

2. It shall be lawful for the Governor in Council of Fort St. George, whenever he shall see fit, by a proclamation published in the Fort St. George Gazette from time to time to declare the whole or any part or parts of the district of Malabar to be subject to the operation of all or any of the following provisions.

Power to declare whole or part of Malabar under Act.

3. Any Mappilla who murders or attempts to murder any person, or who takes part in any outrage directed by Mappillas against any persons wherein murder is committed or is attempted to be committed, or is likely to be committed and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same, or who, after having committed, or having been accessory to, any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him, or who shall join or assist or incite or encourage other persons to join or assist, in such resistance, shall, on conviction thereof, be liable not only to the punishment provided by law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried ;

Forfeiture of property of Mappillas convicted o outrages;

and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court, which would have had cognizance of the offence if the offender could have been brought to trial, to proceed, on the application of the Magistrate, to hold an inquest into the circumstances of the death of the offender; and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government.

of persons killed in committing outrages ;

4. All immovable property of the offender which shall be alienated after the passing of this Act and before the commission of any offence specified in section 3 shall be forfeited in the same manner as if no such alienation had been made, unless the same shall have been made more than twelve months before the commission of the offence.

of immoveable property of offender.

5. If any Mappilla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court, by which such offender is convicted, by its sentence to direct the body of

Disposal of bodies of offending Mappillas.

such offender to be burned or buried within the precincts of the jail, as it shall see fit, and, in like manner, if any Mappilla shall be killed in the act of committing any such offence as aforesaid, or, having committed any such offence as aforesaid, shall be killed in resisting a lawful attempt to apprehend him, it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the jail, as the said Magistrate shall see fit.

Powers of Governor in Council as to confinement or trial.

6. The Governor in Council shall have, with respect to the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by any law regarding the confinement or trial of persons charged with or suspected of State offences ; and the provisions of any such law shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this section.

Procedure of Magistrate in respect to suspected persons.

7. The Magistrate of the District may cause any Mappilla or other person against whom there are, in his judgment, grounds of proceeding under the last section, to be apprehended, and, after such inquiry as he may think necessary, may detain such Mappilla or other person in safe custody until he shall have received the orders of the Governor in Council, to whom in all such cases he shall report his proceedings without unnecessary delay.

Penalty for remaining or returning within forbidden limits.

8. If, with the previous consent of the Governor in Council, any person against whom the Governor in Council shall think fit to proceed under section 6 shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the Continent of India or of any part thereof, and shall in breach of his said undertaking, and without the permission of the Governor in Council, remain or return within such limits, he shall be liable to be punished with imprisonment with or without hard labour for a period which may extend to seven years, or with fine, or both.

Levy of compensation or fine.

9. Whenever any such outrage as is specified in section 3 of this Act, the same being punishable under this Act, shall, after such proclamation as aforesaid, have been committed by any Mappilla or Mappillas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall authorize from all the Mappillas within the amsham [1] or the several amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrages shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, and also within the amsham in which the outrage shall have been committed ;

1 Skr. *amca*, part, share.

and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Mappillas within such amsham or amshams, according to his judgment of their respective means ; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place, to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned by such death ; and, subject to such compensation, to the use of the Government.

Penalty on Mappilla inhabitants of amsham refusing to deliver up.

10. Whenever any such outrage as is specified in section 3 of this Act, the same being punishable under this Act, shall have been committed by any Mappilla or Mappillas, it shall be lawful for the Magistrate to call upon the Mappilla inhabitants of the amsham or amshams to which the perpetrator or perpetrators or any one of such perpetrators of such outrage shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, or wherein any such perpetrator shall, after the perpetration of any such outrage, be found, to deliver up such perpetrator or perpetrators, and, on the failure of such Mappilla inhabitants to comply with such call so made upon them by the Magistrate, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy from such Mappilla inhabitants such sum of money as the Governor in Council shall authorize as prescribed in the last preceding section of this Act, and all sums so levied shall be appropriated in the manner prescribed in that section.

Fines, etc., how levied.

11. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the public revenue may be realized by a Collector ; and no action shall lie in any Civil Court against the Magistrate in respect of any fine imposed or any assessment made under this Act or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

Power to withdraw parts of Malabar from Act.

12. It shall be lawful for the Governor in Council, by such proclamation as aforesaid, from time to time to withdraw from the operation of the provisions of this Act any part or parts of the said district which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

13. [*Duration of Act.*] *Rep. by the Moplah Outrages Continuance Act,* 1869 (*Mad. Act VII of* 1869).

ACT No. XXIV OF 1859.[1]

[THE MADRAS DISTRICT POLICE ACT, 1859.]

[*6th September* 1859.]

An Act for the better regulation of the Police within the territories subject to the Presidency of Fort. St. George.

Preamble.

WHEREAS it is expedient to make the Police-force throughout the Madras Presidency a more efficient instrument at the disposal of the Magistrate for the prevention and detection of crime, and to re-organize the Police-force * * * *[2] It is enacted as follows :—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

"Magistrate."

the word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate :

"Subordinate."

the word "subordinate" as applied to Police-functionaries, shall mean District Superintendents and their Assistants [3] [and Deputies] :

"Police."

[4] [the word "Police" shall include all persons appointed under this Act] :

---

1 The short title, "The Madras District Police Act, 1859" was given by the Repealing and Amending Act, 1901 (XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874), section 4 and the second schedule to be in force in the whole of the presidency of Madras except the territories mentioned in the second schedule to that Act. As to employment in the city of Madras of Police-officers appointed under Act XXIV of 1859, *see* the Madras City Police Act, 1888 (III of 1888), s. 16. The Madras District Police (Amendment) Act, 1865 (Madras Act V of 1865) and sections 3 and 4 of the Towns Nuisances Act, 1889 (Madras Act III of 1889), are to be read with, and taken as part of this Act.

It has been extended, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluqs of Bhadrachalam and Rakapilli—*See Fort St. George Gazette*, 1879, Pt. 1, p. 722, and *Gazette of India*, 1879, Pt. I, p. 630.

It has been declared under s. 3 (*a*) of the same Act, to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*See Fort St. George Gazette*, 1898, Pt. I, p. 666, and *Gazette of India*, 1898, Pt. I, p. 869. The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muthas of the Godavari Agency—*See Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act is in force in the Nugur taluk of East Godavari District in virtue of section 2-(1) of Regulation I of 1909.

As to power of Governor General in Council to create a General Police District (not withstanding anything in this Act) and to direct the enrolment of a Police-force therein, *see* the Police Act, 1888 (III of 1888).

2 The words "and improve the condition of the village-police" were repealed by the Madras Hereditary Village-offices Act, 1895 (Mad. Act III of 1895), except as to Scheduled Districts.

3 The words in square brackets were inserted by the Madras District Police and Towns Nuisances Acts Amendment Act, 1909 (Mad. Act III of 1909).

4 This definition of Police was substituted for the former definition by the Madras Hereditary Village-offices Act, 1895 (Mad. Act III of 1895).

the expression "General Police District" shall embrace all districts to which the operation of this Act shall be extended: "General Police District."

the word "property" shall include any chattel, money or valuable security: "Property."

[1] * * * * *

the word "person" shall include company or corporation: "Person."

the word "month" shall mean calendar month: "Month."

the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine. "Cattle."

2. [*Repeal and amendment of certain Acts.*] *Rep. by the Repealing Act,* 1870 (*XIV of* 1870).

3. [*Jurisdiction of officers appointed under Mad. Reg. XI of* 1816.] *Rep. by the Repealing Act,* 1870 (*XIV of* 1870).

4. The Superintendence of the Police throughout the General Police District shall vest in and be exercised by, the Governor in Council, and, except as authorized by him under the provisions of this Act, no person, officer or Court shall be empowered to appoint, supersede or control any police-functionary, any Regulation, Act or usage to the contrary notwithstanding. Superintendence vested in Governor in Council.

5. The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Inspector-General of Police for the Presidency of Madras, and in such subordinates as to the Governor in Council shall seem fit, who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority, [2] * * * * . Inspector-General of Police, etc.

6. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police-authorities shall be vested in the Police-authorities appointed under this Act: Provided always that no Police-functionary so appointed shall possess or exercise any judicial or revenue authority. Powers of Police, etc.

7. The Inspector-General of Police shall be appointed a Justice of the Peace; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the Governor in Council. The Governor in Council may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as he may deem proper; but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the Inspector-General to be Justice of the Peace. His powers. District Superintendent may be Magistrate. His powers.

1 The definition of Number and Gender was repealed by the Second Repealing and Amending Act, 1914 (XVII of 1914).

2 The words "and who shall receive such salary as the Governor General of India in Council shall allow" were repealed by the Decentralization Act, 1914 (IV of 1914).

prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Constitution of force.

8. The entire Police-establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police-force and shall be formally enrolled, and shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Governor in Council [1] [subject to the control] of the Governor-General of India in Council.

Inspector General to control force and make rules.

9. The Inspector-General may from time to time, subject to the approval of the Governor in Council, frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the force, the places of residence, the classification, rank and particular service of the members thereof; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police-force as the said Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

Appointment and dismissal of Police officers.

10. The appointment of all Police-officers shall, under such rules as the Governor in Council shall from time to time sanction, rest with the Inspector-General of Police [Deputy Inspectors-General] [2] and the [District] [2] Superintendents, who may under such rules as aforesaid at any time dismiss, suspend or fine, to any amount not exceeding one month's pay, any Police-officer whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Police officers to receive certificates of office.

11. Every person so appointed shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police-force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

12. [*Police Superannuation Fund.*] *Rep. by the Repealing Act,* 1874 (*XVI of* 1874).

Additional Police officers

13. It shall be lawful for the Inspector-General of Police, or any District Superintendent, if they shall think fit, on the application of any person showing the necessity thereof, to

---

1 These words were substituted for the words "with the sanction" by the Decentralization Act, 1914 (IV of 1914).

2 These words were inserted and substituted respectively by the Madras District Police and Towns Nuisances Acts Amendment Act, 1909 (Mad. Act III of 1909).

depute any additional number of Police-officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the said Inspector-General or District Superintendent and for such time as they shall think fit; provided always that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General or District Superintendent, to require that the officers so appointed shall be discontinued : such person shall be relieved from the charge of such additional force from the expiration of such notice. **employed at cost of individuals.**

14. Whenever any railway, canal or other public work shall be carried on, or be in operation, in any part of the country, and it shall appear to the Inspector-General that the appointment of an additional Police-force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector-General, with the consent of the Governor-in-Council, to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the treasurer or other officer having the control or custody of the funds of any Company carrying on such works, for the payment of the extra force so rendered necessary as aforesaid. **Additional force in neighbourhood of railway and other works.**

15. All moneys paid in respect of such additional force as is mentioned in the two last preceding sections shall be paid into a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police-force under such orders as the Governor-in-Council may pass; and all sums of money payable under those sections shall be recoverable by suit in any competent Court, or by distress and sale of the goods of the defaulter under the warrant of a Magistrate. **Payment for support of additional Police force.**

16. When it shall appear that any tumult, riot or outrage has taken place or may be reasonably apprehended in any place, and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police-officer may require to act as special Police-officers for such time and in such manner as he shall deem necessary; and it shall be the duty of such Magistrate at once to comply with such applications. **Special Police officers.**

17. Every special police-officer so appointed shall have the same powers, privileges and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities, as the ordinary officers of Police. **Powers of special Police officers.**

Punishment for refusal to serve.

18. If any person, being appointed a special Police-officer as aforesaid, shall without sufficient excuse neg'ect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty rupees for such neglect, refusal or disobedience.

Police officers not to resign without leave or notice; nor to take other employment.

19. No Police-officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent; or unless he shall have given to his superior officer two months' notice in writing of his intention to do so. Nor shall any such Police-officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

Unlawful assumption of Police functions, person ιtion of Police, etc.

20. From and after the passing of this Act, every person not being, or having ceased to be, a duly enrolled Police-officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessaries which may have been supplied to him for the execution of his duty, or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police-force, without being able to account satisfactorily for his possession thereof, or who shall put on the dress of any Police-officer, or any dress designed to represent it, or to be taken for it, or who shall otherwise personate the character or act the part of any Police-officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or both.

Duties of Police officers.

21. Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a Police-officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances; to preserve the peace; to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace; and promptly to obey and execute all orders and warrants lawfully issued to him.

22 to 43. [*Offences for which Police-officers may arrest without warrant: procedure on arrest: rules regarding bail and recognizances: remands: power to enter drinking-shops, etc.: inspection of weights and measures: prohibition to receive complaints of petty offences: powers to inform and prosecute*

provisions regarding execution of warrants and service of summonses : Police-officers not to use threats or promises : obligation to render assistance to Police-officers.] *Rep. by Act XVII of* 1862.

44. Every Police-officer who shall be guilty of any violation of duty or wilful breach of any lawful orders and regulations not punishable under section 10 of this Act, or who shall cease to perform the duties of his office without leave, or without having given two months' notice as provided by this enactment, or engage without authority in any employment other than his Police duty, or who shall maliciously and without probable cause prefer any false, vexatious or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty, in not bringing any person who shall be in his custody without a warrant before a Magistrate as hereinbefore provided, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour not exceeding three months, or both.

Penalties for neglect of duty, etc.

45. Any Police-officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance or recompense, other than he may be duly authorized by the Inspector-General or other officer acting under his order to collect or receive shall, on conviction before a Magistrate, be liable to a penalty not exceeding six months' pay, or to imprisonment, with or without hard labour, not exceeding six months, or both.

Penalty for receiving unauthorized fees, etc.

46. Any Police-officer who shall directly or indirectly extort, exact, seek or obtain any bribe or unauthorized reward or consideration, by any illegal threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences abovesaid, or shall be guilty of cowardice, shall be liable, upon conviction before a Magistrate, to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labour not exceeding twelve months, or both : Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

Penalty for extortion, etc.

Committal by Magistrate of serious cases.

47. If any person shall assault or resist any Police-officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable

Penalty for offences against Police officer.

cause prefer any false or frivolous charge against any Police-officer, such person shall, on conviction of such offence before any Magistrate be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months, or both.

48. [*Penalty for certain offences within limits of towns. Power to arrest without warrant. Slaughtering cattle, furious riding, etc.*] *Rep. by the Town Nuisances Act,* 1889 (*Mad. Act III of* 1889).

49. [*Regulation of public processions, etc., and of carriages and persons at places of public resort. Regulation of use of music in streets.*] *Rep. by Mad. Act V of* 1896.

Jurisdiction. Proviso as to charges against Police officers and village-watchers.

50. In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict: Provided always that such charges against Police-officers above the rank of a private shall only be adjudicated on by European functionaries, and that village-watchers alone shall be liable to conviction by heads of villages.

Liability to prosecution for higher penalties. Proviso.

51. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act, or to prevent any person from being liable under any other law, Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act: Provided always that no person shall be punished twice for the same offence.

Levy of fines.

52.[1] All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate * * * *[2].

Limitation of action. Notice. Recovery by plaintiff.

53. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done, under the provisions of this Act, or under the General Police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the Superintendent or other superior officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action,

---

[1] *See* the Madras Police Act, 1865 (Mad. Act V of 1865), s. 1.

[2] The words "in manner provided by Act II of 1839" were repealed by the Repealing Act, 1874 (XVI of 1874).

brought by or on behalf of the defendant ; and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action. **Costs.**

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act. **Bar to action.**

54. When any action, prosecution or proceeding shall be brought against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate ; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt its being genuine : **Plea that act was done under warrant. Decree for defendant. Proof of signature.**

Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire. **Saving of remedy against issuer of warrant.**

55. This Act shall take effect in any and every such district as the Governor in Council shall appoint by notification published in the official gazette. **Operation of Act.**

SCHEDULE.

[LAWS REPEALED AND AMENDED.]

Rep. by the Repealing Act, 1870 (*XIV of* 1870).

FORM A.

(*See section* 11.)

A. B. has been appointed a member of the Police-force under Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police-officer.

THE MADRAS CIVIL COURTS ACT, 1873.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement
2. [*Repealed*]

PART II.

ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

3. Number of District Courts.
3 A. Appointment of Additional District Judges.
4. Number of Subordinate Judges and District Munsifs.
4 A. Appointment of Additional Subordinate Judges and Additional District Munsifs.
5. Court's locality.
6. Appointment to vacancy in office of District Judge or Subordinate Judge.
7. Appo'ntment to vacancy in office of District Munsif.
Publication of appointments.
Annulment of appointments.
8. District Courts, Subordinate Judges and District Munsifs.
9. Seal of Court.

PART III.

JURISDICTION.

10. Local limits of jurisdiction of District Court or Subordinate Judge.
11. Local jurisdiction of District Munsifs.
12. Jurisdiction of District Judge or Subordinate Judge in original suits.
Jurisdiction of District Munsif.
13. Appeals from decrees of District Courts.
Appellate jurisdiction of District Court.
Appellate jurisdiction of Subordinate Judge.
Disposal of appeal by District Judge.
14. Valuation of suits for immovable property.
15. Power to require witness or party to make oath or affirmation.

SECTIONS.

16. Law administered by Courts to Natives.
17. Judges not to try suits in which they are interested; nor to try appeals from decrees passed by them in other capacities.
Mode of disposing of such suits and appeals.

PART IV.

MISCONDUCT OF JUDGES.

18. Suspension of Judge by Local Government.
19. Suspension of Subordinate Judge by High Court.
20. Suspension of District Munsif by High Court. Commission of Inquiry.
Exercise by High Court of powers conferred on Government by Act XXXVII of 1850.
21. Suspension of District Munsif by District Judge. Report to High Court.

PART V.

MINISTERIAL OFFICERS.

22. Appointment, suspension or removal of Ministerial Officers of District Courts.
23. Appointment, etc., of Ministrial Officers of Subordinate Courts.
24. Rules regulating such appointments.
Duties of Ministerial Officers.
Present Ministerial Officers.
24 A. Transfer of Ministerial Officers.

PART VI.

MISCELLANEOUS.

25. Temporary discharge of duties of District Judge.
26. District Judge may nominate to vacancy in office of District Munsif.
27. District Judge to control Civil Courts of district.
28. Investiture of Subordinate Judge with Small Cause jurisdiction.
Investiture of District Munsif with similar jurisdiction.
29. Exercise by Subordinate Judge of jurisdiction of District Judge in certain proceedings.
30. Vacation.

SCHEDULE.

[*Repealed.*]

ACT No. III OF 1873.[1]

[THE MADRAS CIVIL COURTS ACT, 1873.]

[*21st January* 1873.]

An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called the Madras Civil Courts Act, 1873.

Local extent. It extends to all the territories for the time being under the Government of the Governor of Fort St. George in Council, except the tracts respectively under the jurisdiction of the Agents for Ganjam and Vizagapatam;

Commencement. and it shall come into force on the first day of March 1873.

2. [*Repeal of certain enactments*] *Repealed by the Repealing Act*, 1873 (*XII of* 1873).

PART II.

ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

Number of District Courts. **3.** The number of District (heretofore designated Zila) Courts to be established or continued under this Act, shall be fixed, and may from time to time be altered, by the Local Government:

[2][* * * * *]

Appointment of Additional District Judges. [3][**3 A**. When in the opinion of the High Court, the state of business pending before the Judge of any District Court (hereinafter called the 'District Judge') so requires, the Local Government may appoint one or more Additional District Judges to that Court for such period as they may deem necessary.

---

1 For Statement of Objects and Reasons, *see Gazette of India*, 1873, Pt. V, p. 173; for report of the Select Committee, *see ibid*, 1872, Pt. V, p. 695; for Proceedings in Council relating to the Bill, *see ibid*, Supplement, 1870, p. 900, and 1873, pp. 3, 16 and 153.

2 The words "Provided that no increase to the number of such Courts shall be made by such Government, without the previous sanction of the Governor-General in Council" were repealed by the Decentralization Act, 1914, (IV of 1914), Sch. Pt. I.

3 Section 3-A was inserted by section 2 of the Madras Civil Courts (Amendment) Act, 1931 (Madras Act II of 1931).

The Additional District Judges so appointed shall discharge all or any of the functions of the District Judge under this Act or any other law for the time being in force which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.]

4. The number of Subordinate Judges and District Munsifs to be appointed under this Act for each district, shall be fixed, and may from time to time be altered, by the Local Government : Number of Subordinate Judges and District Munsifs.

[1] [* * * * *]

[2] [The Local Government may, after consultation with the High Court, fix and from time to time vary by notification the number of Subordinate Judges to be appointed for a Subordinate Judge's Court or the number of District Munsifs to be appointed for a District Munsif's Court.]

[3] [**4 A.** When more than one Subordinate Judge is appointed to a Subordinate Judge's Court or more than one District Munsif to a District Munsif's Court, one of the Subordinate Judges or the District Munsifs shall be appointed the Principal Subordinate Judge or Principal District Munsif and the others Additional Subordinate Judges or Additional District Munsifs as the case may be.

Each of the Judges appointed to a Subordinate Judge's Court or a District Munsif's Court may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force.

Subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal District Munsif may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.]

5. The place at which any Court under this Act shall be held may be fixed, and may from time to time be altered, Court's locality.

in the case of a District Court or a Subordinate Judge's Court, by the Local Government,

in the case of a District Munsif's Court, by the High Court.

[4] [The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court.]

---

[1] The words "Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor-General in Council" were repealed by the Decentralization Act, 1914 (IV of 1914), Sch. Pt. I.

[2] This paragraph was added by section 2 of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[3] Section 4-A was inserted by section 3 ibid.

[4] This sentence was added by section 2 of the Madras Civil Courts Act, 1885 (XXI of 1885).

Appointment to vacancy in office of District Judge or Subordinate Judge.

6. Whenever the office of [1] [a District Judge] or of a Subordinate Judge under this Act is vacant, .

[2] [* * * * *]

the Local Government shall appoint to the office such duly qualified person as it thinks proper.

Appointment to vacancy in office of District Munsif.

7. Whenever the office of a District Munsif under this Act is vacant,

[3] [* * * * *] XIV 188

the High Court shall appoint to the office such person as it thinks fit:

Provided that he possesses the qualifications for the time being required by the rules in this behalf which the High Court, with the previous sanction of the Local Government, are hereby empowered to make and alter.

Publication of appointments.

Every appointment made under this section shall be published in the same manner as appointments made by the Local Government.

Annulment of appointments.

The Local Government may, for good and sufficient reason, annul any appointment made under this section.

District Courts, Subordinate Judges and District Munsifs.

8. The present Zila Courts, Principal Sadr Amins, and District Munsifs, shall be respectively the first "District Courts," "Subordinate Judges," and "District Munsifs" under this Act.

Seal of Court.

9. Every Court under this Act shall use a seal of such form and dimensions as are, for the time being, prescribed by the Local Government.

PART III.

JURISDICTION.

Local limits of jurisdiction of District Court or Subordinate Judge.

10. The Local Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any [4] [District Court or Subordinate Judge's Court] under this Act:

[5] [* * * * *]

---

[1] The words "a District Judge" were substituted for the words "the Judge of a District Court (hereinafter called a 'District Judge')" by section 3 of the Madras Civil Courts (Amendment) Act (Madras Act II of 1931).

[2] The words "or whenever the Governor-General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section 3 or section 4" were omitted by the Decentralization Act, 1914 (IV of 1914), Sch. Pt. I.

[3] The words "or whenever the Governor-General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section 4" were omitted by ibid.

[4] The words within square brackets were substituted for the words "District Judge or Subordinate Judge" by section 4 (*a*) of the Madras Civil Courts (Amendment) Act, 1925(Madras Act III of 1925).

[5] The proviso to section 10 was omitted by section 4 (*b*) ibid.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to have been fixed under this Act.

Local jurisdiction of District Munsifs.

11. The High Court shall fix, and may from time to time modify, the local jurisdiction of District Munsifs.

[1][* * * * *]

Jurisdiction of District Judge or Subordinate Judge in original suits.

12. The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

Jurisdiction of District Munsif.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of the subject-matter does not exceed[2] [three thousand] rupees.

Appeals from decrees of District Courts.

13. Regular or special appeals, [3][. . .] shall, when such appeals are allowed by law, lie from the decrees and orders of a District Court to the High Court.

Appellate jurisdiction of District Court.

Appeals from the decrees and orders of Subordinate Judges and District Munsifs shall, when such appeals are allowed by law, lie to the District Court, except when the amount or value of the subject-matter of the suit exceeds rupees five thousand, in which case the appeal shall lie to the High Court:

Appellate jurisdiction of Subordinate Judge.

Provided that, whenever a Subordinate Judge's Court is established in any district at a place remote from the station of the District Court, the High Court may, with the previous sanction of the Local Government, direct that appeals from the decrees or orders of District Munsifs within the local limits of the jurisdiction of such Subordinate Judge be preferred in the Court of the latter :

Disposal of appeal by District Judge.

Provided also, that the District Judge may remove to his own Court, from time to time, appeals so preferred, and dispose of them himself, or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs, preferred in the District Court, to any Subordinate Judge within the district.

Valuation of suits for immovable property.

[4][14. When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes

---

[1] The second paragraph of section 11 which was added by section 3 of the Madras Civil Courts Act, 1885 (XXI of 1885), was omitted by section 5 of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[2] These words were substituted for the words " two thousand five hundred " by section 2 of the Madras Civil Courts (Amendment) Act, 1916 (Madras Act III of 1916).

[3] The words and figures " or appeals under Madras Regulation XI of 1832, section 9," were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

[4] This section is repealed in local areas to which rules under section 3 of the Suits Valuation Act, 1887 (VII of 1887), apply—see section 6 of that Act.

of the jurisdiction conferred by this Act, be fixed in manner provided by the Court Fees Act, 1870, section 7, clause v.]

Power to require witness or party to make oath or affirmation.

15. Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as is prescribed by the law for the time being in force.

Law administered by Courts to Natives.

16. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution,

(*a*) the Muhammadan law in cases where the parties are Muhammadans and the Hindu law in cases where the parties are Hindus, or,

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished.

(*c*) in cases where no specific rule exists, the Court shall act according to justice, equity, and good conscience.

Judges not to try suits in which they are interested;

17. No District Judge, Subordinate Judge or District Munsif shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

nor to try appeals from decrees passed by them in other capacities.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

Mode of disposing of such suits and appeals.

When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the Court to which he is immediately subordinate.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 6.[1]

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

---

[1] See now section 24 of the Code of Civil Procedure, 1908 (Act V of 1908).

PART IV.

MISCONDUCT OF JUDGES.

18. Any District Judge, Subordinate Judge, or District Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Judge by Local Government.

19. The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge pending the orders of the Local Government.

Suspension of Subordinate Judge by High Court.

The High Court shall immediately report the circumstances of such suspension,

and the Local Government shall make such order thereon as it thinks fit.

20. The High Court may suspend any District Munsif who is alleged to have misconducted himself, or may appoint a Commission for inquiring into his alleged misconduct.

Suspension of District Munsif by High Court. Commission of Inquiry.

The provisions of Act No. XXXVII of 1850 [2] (*for regulating inquiries into the behaviour of public servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

Exercise by High Court of powers conferred on Government by Act XXXVII of 1850.

On receiving the report of the result of any such inquiry, the High Court may, if it think fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

21. The District Judge may suspend from office, whenever he sees urgent necessity for so doing, any District Munsif under his control.

Suspension of District Munsif by District Judge.

Whenever [2] [the District Judge] exercises the power conferred by this section, he shall forthwith send to the High Court a full report of the circumstances of the case, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

Report to High Court.

---

[1] The Act has since been amended by the Public Servants (Inquiries) Act (1850), Amendment Act, 1897 (I of 1897).

[2] The words "the District Judge" were substituted for the words "a District Judge" by section 4 of the Madras Civil Courts (Amendment) Act, 1931 (Madras Act II of 1931).

PART V.

MINISTERIAL OFFICERS.

Appointment, suspension or removal of Ministerial Officers of District Courts.

22. The Ministerial Officers of [1] [a District Court] shall be appointed, and may be suspended or removed, by [2] [the District Judge], whose orders in such matters shall [3] [subject to the control of the High Court] be final.

Appointment, etc., of Ministerial Officers of Subordinate Courts.

[4] [23. The Ministerial Officers of the Court of a Subordinate Judge or of a District Munsif shall be appointed and may be suspended or removed by the Judge thereof, or if the Court consists of more than one Judge by the Principal Judge thereof whose order in such matter shall, subject to the control of the District Judge and the High Court, be final.]

Rules regulating such appointments.

24. Every appointment under this Part shall be made subject to such rules as the Local Government from time to time prescribes on this behalf.

Duties of Ministerial Officers.

Every person appointed under this Part shall perform such duties as may from time to time be imposed upon him by the presiding officer of the Court to which he belongs.

Present Ministerial Officers.

The present Ministerial Officers of the Courts under this Act shall be deemed to have been appointed under this Part.

Transfer of Ministerial Officers.

[5] [24 A. (1) The High Court may transfer all or any of the Ministerial Officers of any Civil Court subject to its superintendence to any other such Court.

(2) The District Judge may transfer all or any of the Ministerial Officers of any Civil Court under his control to any other such Court.]

PART VI.

MISCELLANEOUS.

Temporary discharge of duties of District Judge.

25. In the event of the death of the District Judge,

or of his being incapacitated by illness or otherwise for the performance of his duties,

or of his absence from the station in which his Court is held,

---

[1] The words " a District Court " were substituted for the words " the District Courts " by section 5 of Madras Act II of 1931.

[2] The words " the District Judge " were substituted for the words " the Judges of such Courts ' by section 5 ibid.

[3] These words were added by section 4 (*a*) of the Madras Civil Courts Act, 1885 (XXI of 1885).

[4] Section 23 was substituted by section 6 of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[5] Section 24-A was substituted by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

[1] [the Senior Additional District Judge or the Additional District Judge as the case may be or if there is no Additional District Judge], the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the District Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,

and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

26. The District Judge, on the occurrence within his district of any vacancy in the office of District Munsif, may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office ; District Judge may nominate to vacancy in office of District Munsif.

and he shall at once report to the High Court the occurrence of every such vacancy and such appointment.

27. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any district is vested in the District Judge. District Judge to control Civil Courts of District.

28. The [2] [High Court] may, by notification in the official Gazette, invest within such local limits as it shall from time to time appoint, Investiture of Subordinate Judge with Small Cause jurisdiction.

any [3] [District or] Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of rupees [4] [one thousand],

and any District Munsif with the same jurisdiction up to the amount of [5] [. . .] rupees [6] [three hundred], Investitur of District Munsif with similar jurisdiction.

and may, by like notification, whenever it thinks fit, withdraw such jurisdiction from the [3] [District or] Subordinate Judge or Munsif so invested.

These words were inserted by section 6 of the Madras Civil Courts (Amendment) Act (Madras Act II of 1931).

[2] The words " High Court " were substituted for the words " Local Government " by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

[3] These words were inserted by section 5 of the Madras Civil Courts Act, 1885 (XXI of 1885).

[4] The words " one thousand " were substituted for the words " five hundred " by section 2 of the Madras Civil Courts (Second Amendment) Act, 1926 (XVIII of 1926).

[5] The words " rupees fifty or on the recommendation of the High Court up to any amount not exceeding " were repealed by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

[6] The words " three hundred " were substituted for the words " two hundred " by section 2 of the Madras Civil Courts (Second Amendment) Act, 1926 (XVIII of 1926).

Exercise by Subordinate Judge of jurisdiction of District Judge in certain proceedings.

[1][29. (1) The High Court may, by general or special order, authorize any Subordinate Judge to take cognizance of, or any District Judge to transfer to any Subordinate Judge under his control, any proceedings under the Indian Succession Act, 1925, which cannot be disposed of by District Delegates. XXXI of 192

(2) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge, and may either himself dispose of them or transfer them to a Court under his control competent to dispose of them.

(3) Notwithstanding anything contained in section 13, proceedings taken cognizance of by, or transferred to, a Subordinate Judge under the provisions of this section shall be disposed of by him subject to the law applicable to like proceedings when disposed of by the District Judge.]

Vacation.

30. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.

SCHEDULE.

ENACTMENTS REPEALED.

[*Repealed by the Repealing Act,* 1873 (*XII of* 1873).]

ACT No. XIX OF 1877.[2]

[THE MADRAS CIVIL COURTS AMENDMENT ACT, 1877.]

[*28th December*, 1877.]

An Act to enable certain District Judges to suspend and remove certain ministerial officers, and for other purposes.

Preamble.

WHEREAS it is expedient to empower * * * * * *[3] the District Judges of the Presidency of Fort St. George to suspend and remove ministerial officers of the Courts of Subordinate Judges, Munsifs and District Munsifs; and whereas

---

[1] Section 29 was inserted by section 2 of the Madras Civil Courts (Amendment) Act, 1926 (XIV of 1926).

[2] Short title "The Madras Civil Courts (Amendment) Act, 1877," was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Gazette of India*, 1877, Pt. V, p. 320; for Proceedings in Council, *see ibid*, 1877, Supplement, pp. 22, 76, and 272.

[3] The words "the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William and" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

it is also expedient to provide in the Presidency of Fort St. George for the transfer of ministerial officers from one Court to another; It is hereby enacted as follows:—

1. [*Amendment of Act VI of* 1871.] *Rep. by the Bengal, N. W. P. and Assam Civil Courts Act,* 1887 (*XII of* 1887), s. 2.

II of 1873. **2.** For section 23 of the Madras Civil Courts Act, 1873, the following shall be substituted (that is to say):— [*Not printed.* See Foot-note No. 4 on page 108 *supra.*] Amendment of Act III of 1873, s. 23.

3. After section 24 of the same Act the following section shall be inserted:—[24-A. *Not printed.* See Foot-note No. 5 on page 108 *supra*]. Addition after section 24 of Act III of 1873.

ACT No. XVI of 1879.[1]

[The Transport of Salt Act, 1879.]

[30*th September,* 1879.]

An Act to restrict the Transport of Salt by Sea.

Whereas it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Transport of Salt Act, 1879. Short title.

It extends to the western coast of British India, north of Cochin, and to the sea within a distance of a marine league from such coast; * * *[2] Local extent.

[3][**1 A.** The 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924.] Definition.

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both. Penalties for carrying salt in certain vessels.

3. Nothing in section 2 applies to—

(*a*) salt covered by a permit granted under [4][Chapter V of the Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for Exceptions.

---

[1] For Statement of Objects and Reasons, *see Gazette of India,* 1877, Pt. V, p. 17; for Report of the Select Committee, *see ibid.,* p. 94A, and for Proceedings in Council, *see ibid* Supplement, pp. 88, 126, 493 and 1223.

[2] The words "and it shall come into force at once" were repealed by the Repealing and Amending Act, 1901 (XI of 1901)—Third Schedule, Part II.

[3] Section 1A was inserted by s. 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925).

[4] The words in square brackets were substituted for the words "section 28 or section 31 of the Act of the Governor of Bombay in Council, No. VII of 1873, or by a rawana granted under Madras Regulation I of 1805, section 11, clause third," by the Amending Act, 1891 (XII of 1891).

the time being in force in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be];

(*b*) salt covered by a pass granted by any officer whom [the Central Board of Revenue] [1] may appoint in this behalf;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the [1][Central Board of Revenue] may, from time to time, exempt from the operation of section 2.

Power of stoppage, search and arrest.

4. When any officer empowered by the [2] [Chief Customs Authority] whether by name or office, to act under this section, has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel, so as to render the owner or master of such vessel liable to the penalties prescribed by section 2, he may require such vessel to be brought to, and thereupon may—

(*a*) enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and,

(*d*) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section 2.

Penalties for resisting officer.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section 4,

and any person obstructing any such officer in the performance of his duty may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Confiscation of vessel and cargo.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section 2, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

---

[1] The words "Central Board of Revenue" were substituted for the words "Governor of Bombay in Council" by section 2 of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925).

[2] The words "Chief Customs Authority" were substituted for the words "Governor of Bombay in Council" by the Decentralization Act, 1914 (IV of 1914), Sch., Pt. I.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs-authority, or by such other officer as the [Governor-General in Council][1] may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs-authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such inquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under section 2 or section 5 every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section 4 or section 5, he may be brought. **Jurisdiction.**

8. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act. **Power to exempt from operation of Act.**

---

[1] The words "Governor-General in Council" were substituted for the words "Local Government" by section of the Salt Law (Amendment) Act, 1925 (Act XXII of 1925).

THE CENTRAL PROVINCES LAND REVENUE ACT, 1881 (XVIII OF 1881).

CONTENTS.

PREAMBLE.

PART I.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1 Short title.
Local extent.
Commencement.
2, 3 [*Repealed.*]
4 Interpretation-clause.
4 A Meaning of "sír-land."
Temporary provisions for districts not settled since 1889.

PART II.

CHAPTER II.

OF REVENUE OFFICERS: THEIR POWERS AND PROCEDURE.

5 Chief Controlling Revenue-authority.
6 Revenue-officers.
7 Appointment, suspension and removal of Commissioners, Deputy and Assistant Commissioners.
8 Appointment, suspension and removal of Tahsíldárs and Náib Tahsíldárs.
9 Persons holding office when Act comes into force.
10 Power to appoint additional Commissioners, Deputy Commissioners and Tahsíldárs.
11 Chief Commissioner may invest Assistant Commissioner with powers of Deputy Commissioner.
12 Officers transferred to retain powers with which they were invested.
13 Provision for discharge of duties of Deputy Commissioner dying or being disabled.
14 Chief Commissioner may alter limits of district or tahsíl.
15 Power to invest Revenue-officers—
with power conferred by Code of Civil Procedure;
with power to delegate powers.
16 Power of Deputy Commissioner to distribute work.

SECTIONS.

17 Power of superior Revenue-authorities to withdraw and transfer cases.

18 Power of Revenue-officers to enter on land, etc.

18A Power for Revenue and Settlement-officers to require atendance of persons and production of documents.

19 Power to make rules to regulate procedure.

20 Persons by whom appearances and applications may be made before and to Revenue-officer.

Obligation of parties to attend in person.

21 Legal practitioner's or agent's fees not allowed unless for special reasons.

22 Appeals.

23 Limitation of appeals.

24 Powers of revision of Commissioner and Deputy Commissioner.

25 Powers of revision of Chief Commissioner.

26 Review of orders.

PART III.

Of Survey and Settlement.

CHAPTER III.

PRELIMINARY.

27 Notification of revenue-survey.

Effect thereof.

28 Notification of settlement.

Power to amend notification.

29 Power to appoint Settlement-officers ; and to suspend and remove them.

30 Settlement-officer may be invested with powers of Deputy Commissioner.

31 Certain provisions of Chapter II applied to Settlement-officers.

32 Appointment of Settlement-commissioner ; delegation to him of Chief Commissioner's powers.

33 Power to invest Settlement-officers with Civil Court powers.

34 Chief Settlement-Officer to have powers of Deputy Commissioner.

35 Appeals in suits specified in section 33 when to lie to Chief Settlement-Officer.

SECTIONS.

36 Division of civil work between Settlement-officers and ordinary Courts.

37 Provisions of section 31 not to apply to certain suits.

38 Appeal, reference and revision.

39 Duration of settlement-operations.

Cases pending at close of settlement-operations.

CHAPTER IV.

OF DEMARCATION.

Unowned Lands.

40 Settlement-officer to invite claims to lands appearing to have no owner.

41 Application of Act XXIII of 1863.

42 Procedure when limited right over land established

Mahâls.

43 Power to form Mahâls.

Excluded Lands.

44 Settlement-officer may exclude any town or land from settlement-operations.

Boundary marks.

45 Erection of new, and repair of existing, boundary marks.

CHAPTER V.

OF THE ASSESSMENT OF LAND-REVENUE.

46 Separate sum to be assessed on every mahâl.
Progressive assessments.

47 Matters as to which Chief Commissioner is to instruct Settlement-officer.

48 What land taken into account in assessing mahâl.

49 Assessment to whom to be offered.

50 Sub-settlement to be made with inferior proprietors when settlement is made with superior.

51 Power to give directions as to payment of certain profits of superior proprietors.

52 Power to make rules for reporting assessment for sanction.

53 Offers of assessment to be made subject to revision and confirmation.

SECTIONS.

54 Option to accept or refuse assessment.
Mode of acceptance.
55 Proprietor not accepting in manner prescribed may be deemed to have accepted.
56 Effect of acceptance of assessment.
Assessment may be rescinded by Chief Commissioner or by Governor General in Council.
Málguzárs may object to continuance of assessment beyond term of settlement.
56 A When assessment is in form of rates, Deputy Commissioner to publish record of amount payable.
57 Procedure when assessment is refused.
58 Procedure when only some proprietors accept assessment.
59 Procedure on refusal of assessment in village in which superior and inferior rights co-exist.
60 Procedure on refusal of assessment by inferior proprietors.
61 Allowance to excluded proprietors.
62 Excluded proprietors to have occupancy-rights in their sír-land.
63 Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.
64 Sub-settlement with málik-makbuzas and other like holders of land.
65 Revenue payable under sub-settlement to be first charge on land.
65 A Power to inquire into the claims of thíkádárs, gaontias and farmers.
66 Settlement-officer to apportion assessment over lands held in severalty.
67 Settlement-officer to redistribute land according to custom.

Procedure in Raiyatwári Settlements.

67 A Assessment of raiyatwári villages.
67 B Assessment to whom to be offered.
67 C Assessment of unoccupied survey numbers.
67 D Responsibility of raiyats for assessment.
67 E Right of raiyat inheritable, but not transferable.
67 F Power to make rules for survey-numbers.
67 G Provisions of sections 55 and 56 applicable to raiyatwári settlements.

SECTIONS.

67 H Land-revenue now payable by raiyats to be deemed to be fixed under this Act.

67 I Raiyats holding Government land not included in raiyatwári villages.

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

68 Settlement-officer to ascertain proprietors.

69 Determination and record of sìr-land.

70 Settlement-officer to decide disputes among shareholder regarding management of mahál.

71 Settlement-officer to determine through what lambardárs revenue shall be paid.

72 Settlement-officer to ascertain status and rents of tenants.

73 Inquiry into claims to hold free from revenue as against Government.

Power of Chief Commissioner to make rules.

74 Inquiry as to claims to hold free from revenue as against málguzárs.

Chief Commissioner may make rules for disposal of such cases.

75 Time from which orders under sections 73 and 74 take effect.

76 Settlement-officer to decide what village cesses are leviable.

77 Settlement-officer to determine certain disputes.

78 Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*), (*c*) and (*d*).

79 Record-of-rights.

80 Chief Commissioner may make rules regarding record-of-rights.

81 Record-of-rights to be made over to Deputy Commissioner.

82 Effect of entries in record-of-rights.

83 Suits to contest certain settlement decisions or entries.

84 Revision of record-of-rights by Chief Commissioner.

85 Proceedings regarding lands the property of Government.

CHAPTER VII.

OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

SECTIONS.

86 Former settlements deemed to have been made under this Act.

87 Effect of awards of proprietary rights at such settlements.

88 When suits for proprietary rights will lie in Civil Courts.

89 Chief Commissioner may allot waste-land to málik-makbuzás entitled thereto.

PART IV.

Of Revenue-Administration.

CHAPTER VIII.

OF THE COLLECTION OF LAND-REVENUE.

90 Power of Chief Commissioner to regulate payment of land-revenue.

91 "Arrears."
"Defaulters."

91 A Avoidance of attachments and executions which forestall land-revenue.

Realization of Revenue from Málguzárs.

92 Tahsíldár's statement of account to be conclusive evidence of arrear.

93 Notice of demand.

94 Processes for recovery of arrears.

95 Arrest and imprisonment for recovery of arrear.

96 Imprisonment of defaulter in civil jail.

97 Procedure in sales of movable property.

98 Management of mahál, share or land attached under section 94 (*c*).

99 Effect of attachment.

100 Profits of land how applied.

101 Attachment when to cease.

102 Transfer under section 94 (*d*).
Joint and several liability not affected by transfer.

103 Procedure after receipt of sanction to annulment of settlement.

104 Case of a portion of a mahál being managed or farmed.

105 Settlement on expiry of management or farm.

SECTIONS.

106 Effect of annulment of settlement.

107 Saving of rights in sír-land.

108 Nature of estate taken by purchaser of land sold for arrears due thereon.

109 Rules for sale of immovable property.

110 Pre-emption at sales.

111 Application of proceeds of sale of immovable property.

112 Costs recoverable as part of arrear.

113 Matters as to which Chief Commissioner may make rules.

114 Remedies open to person denying that sum demanded as an arrear is due.

Realization of Revenue by Málguzárs.

115 Limitation of right to set-off, etc., in suit for arrears.

116 Recovery of arrear through Deputy Commissioner instead of by suit.

117 Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

118 Limitation in suits for revenue.

Interest on arrears.

119 Interest on arrears.

CHAPTER IX.

OF REVENUE AND VILLAGE RECORDS.

120 Correction of record-of-rights.

121 Revision of record in accordance with provision therein contained.

122 Powers of Deputy Commissioner as to correction of entry or revision of record.

123 Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

Punishment of violation of such rule or custom.

124 Suit to set aside proceedings under section 123.

124 A Powers to control management of forests.

125 Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

126 Possession of proprietary rights to be notified.

Notice to be given by guardian in case of minority or idiotcy.

127 Fine for neglect to give notice of possession.

SECTIONS.

128 Obligation to aid in preparation of village papers.

129 Fees for recording changes ; from whom leviable.

130 Annual inquiry regarding land held free from revenue. Procedure on breach of conditions of grant. Procedure on expiry of term of grant.

131 Inspection of revenue-records.

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE-OFFICERS.

132 Purposes for which when settlement is not in progress, Deputy Commissioner shall exercise Settlement-officers' powers.

133 Purposes for which officers may be invested with Settlement-officers' powers.

134 Cognizance of, and penalty for, offence of injuring boundary-marks.

135 Procedure when person injuring cannot be found.

CHAPTER XA.

PARTITION.

Perfect and Imperfect Partition.

136 Perfect and imperfect partition.

136A Persons entitled to imperfect partition.

136B Persons entitled to perfect partition.

136C Jurisdiction of Civil Court barred as to partition.

Imperfect Partition.

136D Applications for imperfect partition to be made to Deputy Commissioner.

136E Procedure on receipt of application.

136F Objection to partition.

136G Objection raising question of title.

136H Effect of Deputy Commissioner's orders in such cases, and appeals therefrom.

136I Second appeal in such cases.

136J Option to parties to make partition themselves or appoint arbitrators.

136K Proceeding to be recorded by the Deputy Commissioner before making partition.

136L Each pattí to be made as compact as possible.

SECTIONS.

136M Rule when house of one sharer is included in the pattí of another.

136N Sír-land belonging to one sharer not to be included without his consent in the pattí of another sharer.

136O Rule as to tanks, wells and other irrigation-works.

136P Rule regarding places of worship and burial grounds.

136Q Deputy Commissioner may dismiss case for non-payment of costs or may quash proceedings.

136R Commissioner's sanction to partition necessary.

136S When partition sanctioned, notification to be published.

Perfect partition.

136T Applications for perfect partition to be made to settlement-officer.

136U Settlement-officer may declare shares in mahāls to be separate mahāls.

Supplemental Provisions.

136V Power to make rules regarding partition proceedings.

136W Partition may be effected by distribution of mahāls.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWÁRIS.

137 Power to make rules as to officers.

138 Duties of lambardárs.

139 Lambardárs may recover fees and other charges from proprietors.

140 Deputy Commissioner may alter channel through which málik-makbuzá pays revenue.

Effect of order for payment of revenue direct to Government.

141 Duties of mukaddams.

142 Liabilities imposed by law on landholders to attach to mukaddams.

143 Power of mukaddams to recover certain expenses incurred.

143A Duties of patél.

144 Chief Commissioner may make rules as to patwárís.

145 [*Repealed.*]

146 Chief Commissioner may define duties of patwárís.

Patwárís' papers to be public documents.

SECTIONS.

146A [*Repealed.*]

147 Patwárís to produce papers for inspection, and to allow copies to be made.

147A Power to make rules regarding village-watchmen.

148 Existing officers confirmed.

149 Lambardárs' and other officers' dues recoverable as arrears.

150 Holders of sír-land in Sambalpúr to provide for remuneration of mukaddams.

PART V.

CHAPTER XII.

MISCELLANEOUS.

151 Right to mines, quarries and fisheries.

152 Exclusive jurisdiction of Revenue-authorities.

Matters excepted from jurisdiction of Civil Courts.

153 For what village-cesses suit lies.

154 Limitation of claims for compensation in case of waste-land demarcated as property of Government.

155 Restriction on Revenue and Settlement-officers trading and holding land.

156 When mahal managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner.

Payment to proprietor in anticipation of due date.

157 Recovery of balances due by farmers.

157A Recovery of miscellaneous revenue.

158 Recovery of revenue due when Act comes into force, and of money payable under Act.

159 Past proceedings for collection of revenue legalized.

160 Chief Commissioner may empower persons by name, or confer powers on classes.

161 Chief Commissioner may vary or cancel orders.

161A Penalty for failure to perform duty or abuse of authority by Mukaddam or agent.

161B Penalty for neglecting or disobeying orders of mukaddam or agent.

162 Chief Commissioner may make rules and attach penalty to breach thereof.

SCHEDULE—[*Repealed.*]

ACT No. XVIII OF 1881[1].

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.]

[*8th June, 1881.*]

An Act to consolidate and amend the law relating to land-revenue and the powers of Revenue-officers in the Central Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces; It is hereby enacted as follows :—

PART I.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Central Provinces Land-revenue Act, 1881.

Local extent.

It extends to all the territories for the time being under the administration of the Chief Commissioner of the Central Provinces * * *[2];

Commencement.

and it shall come into force on such day[3] as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette.

2. [*Enactments repealed.*] *Rep. Act XII of* 1891.

3. [*Pending proceedings.*] *Rep. Act XII of* 1891.

Interpretation-clause.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) "Assistant Commissioner" includes also "Extra Assistant Commissioner."

(2) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent.

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1880, Pt. V, p. 263 ; for Proceedings in Council, *see ibid*, Supplement, pp. 1148, and 1302, and *ibid.*, 1881, Supplement, pp. 647 and 669.

The Act, with certain modifications is in force in the Taluqs of Nugur, Albaka and Cherla which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April, 1909, issued by the Governor-General in Council under s. 4 of the Government of India Act, 1865, with effect from the first day of July 1909. *See* Regulation I of 1909, s. 3.

[2] The words and figures "except those specified in Pt. VI, of the 1st Schedule of the Scheduled Districts Act, 1874," (XIV of 1874), were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 3.

[3] The 4th November, 1881, *see* Central Provinces Gazette, 1881, Pt. II, p. 176.

(3) "village-cess" means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, [1] [or to their transferees or assignees as such or to the patel], and includes service rendered or things furnished as well as money paid :

(4) "recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf.

(5) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified district or districts, from time to time appoint :

[2] (6) * * * * * * * * *

[3] (6*a*) "survey-number" means a local area held by, or intended to be settled with, a raiyat under a separate assessment of land-revenue in a village or estate which is the property of the Government.

(7) "mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahál, [but does not include a survey number :][4]

(8) "village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act :

[5] (8*a*) "proprietor," except in section 4, clause (*b*), and in sections 61, 62, 63 and 69, includes a gaontia of a Government village in the Sambalpúr District :

(9) "malguzár" means a person who, under the provisions of this Act, has accepted, or is to be deemed to have

---

[1] These words in square brackets were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 4.

[2] Cl. (6), which was substituted for the original clause by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 5, was repealed by s. 2 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

[3] Cl. (6*a*) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 6.

[4] These words were added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 7.

[5] Cl. (8*a*) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 8.

accepted, the assessment of a mahál, and includes his representatives and assigns, and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns :

[1] (10) " málik-makbuzá " means any person owning one or more plots of land separately assessed with revenue in a mahál, and who is not a malguzár, inferior proprietor or member of the proprietary body of the mahál :

(11) "lambardár" means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government :

(12) "sub-lambardár" means a person so appointed to represent the inferior proprietary body of a mahál in its relations with the superior proprietors :

(13) " mukaddam " means the executive headman of a village, appointed in manner prescribed by this Act :

[2] (13*a*) "patel" means a person appointed in manner prescribed under this Act to represent a body of Government raiyats in their dealings with the Government :

[2] (13*b*) "patti" means the lands allotted to any sharer or body of co-sharers in a mahál by an imperfect partition under this Act :

(14) " tenant " means a person who holds land of another person, and is, or but for a special contract would be, liable to pay rent for such land to such other person ; but it does not include a farmer, mortgagee or thikadár of proprietary rights ;

[3] *Explanation I.*—An inferior proprietor is not, as such, a tenant ;

[3] *Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur District, is a tenant of the farmer or gaontia for the time being ;

[3] *Explanation III.*—A person who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from a málik-makbuzá or from the holder of a survey-number is a sub-tenant of that land :

---

[1] This clause was substituted for the original clause (10) by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 9. The original clause was as follows :—" 'Malik Makbuzá' means any person owning one or more plots of land assessed with revenue in a mahál ; but it does not include a malguzár or inferior proprietor."

[2] Clauses (13 *a*) and (13 *b*) were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 10.

[3] These *Explanations* were substituted for the original *Explanation* by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 11. The original Explanation ran as follows :—" *Explanation.*—An inferior proprietor is not, as such, a tenant."

(15) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(16) "absolute occupancy-tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into force,[1] or after such a settlement but before this Act comes into force was recorded, by order of a Revenue or Settlement officer, in respect of such land as an "absolute occupancy-raiyat," or in terms equivalant thereto.

(17) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before this Act comes into force.[1]

[2]**4A.** (1) Subject to the provisions of sub-section (2) "sír-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other, land, namely :— **Meaning of "sír-land."**

(*a*) land finally recorded under section 69 as "sír-land" in the papers of the current settlement ;

(*b*) land declared, under section 132, clause (*j*) to be "sír-land ;" and

(*c*) land in the Sambalpur District recorded as "bhogra" in the papers of the current settlement.

(2) In any local area of which no settlement has been made since the commencement of the Central Provinces Land-revenue Act, 1889, and until the settlement of such local area next following the commencement of the Central Provinces Land-revenue Act, 1898, "sír-land" includes— **Temporary provisions for districts not settled since 1889.** XVI of 1889. XII of 1898.

(*a*) land defined as sír-land in the foregoing sub-section :

Provided that any such land (other than bhogra) which, at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor, and which had, after the date of the settlement last preceding the commencement of the said Act, been so unoccupied for a period of six consecutive years shall not be deemed to be "sír-land ;" XVI of 1889.

(*b*) land which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by and had been cultivated by the proprietors or one of the proprietors thereof for a period of not less than twelve consecutive years ; XVI of 1889.

(*c*) land which had at the commencement of the Central Provinces Land-revenue Act, 1889, been broken up XVI of 1889.

---

[1] The 4th November 1881 ; *see* Central Provinces Gazette, 1881, Pt. II, p. 176.

[2] Section 4A was inserted by s. 2 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

from waste by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years: Provided that any such land which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied XVI of 1889. by the proprietor, and had been so unoccupied by him for six consecutive years shall not be deemed to be "sír-land."

Explanation I.—For the purposes of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation of his sír-rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

Explanation II.—For the purposes of this section—

(*a*) the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a málik makbuzá:

(*b*) when by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not "sír-land," and which is taken in exchange for "sír-land," becomes "sír-land" and the "sír-land" given in exchange for that land ceases to be "sír-land:"

(*c*) subject to the proviso to sub-section (2), clause (*a*), land which has been recorded as "sír-land" in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as "sír-land" under section 69.

PART II.

CHAPTER II.

OF REVENUE-OFFICERS ; THEIR POWERS AND PROCEDURE.

[1]5. There shall be the following classes of revenue-officers, namely :— Revenue-officers.

the Chief Commissioner,

the Financial Commissioner,

Commissioners,

Deputy Commissioners,

Assistant Commissioners,

Tahsildars,

Naib-Tahsildars.

[1]6 (1) The Chief Commissioner shall, in all revenue matters, be subject to the control of the Governor General in Council.

(2) The Financial Commissioner shall be subject to the control of the Chief Commissioner. Subordination of officers.

(3) All other Revenue-officers shall be subordinate to the Chief Commissioner and the Financial Commissioner; all Revenue-officers in a division shall be subordinate to the Commissioner of the division; and all Revenue-officers in a district shall be subordinate to the Deputy Commissioner of the district.

(4) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class, and, when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct.

---

1 These sections were substituted for the original sections 5 and 6 by the Central Provinces Financial Commissioner's Act 1908 (XIII of 1908) s. 4, with effect from the 10th December, 1908, when that Act was brought into force, *see* s. 1 of that Act, and Central Provinces Gazette, 1908, Pt. I, p. 920.

The original sections 5 and 6 were as follows :—

" 5. The Chief Commissioner shall, subject to the control of the Governor General in Council, be the Chief Controlling Revenue-authority.

" 6. (1) Besides the Chief Commissioner, there shall be the following classes of Revenue-officers, namely :—

Commissioners ;
Deputy Commissioners ,
Assistant Commissioners ;
Tahsildárs ;
Náib Tahsildárs.

(2) All Revenue-officers are subordinate to the Chief Commissioner ; all Revenue-officers in a division are subordinate to the Commissioner of the division ; and all Revenue-officers in a district are subordinate to the Deputy Commissioner of the district.

(3) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class, and when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct."

Appointment, suspension and removal of Commissioners, Deputy and Assistant Commissioners.

7. Subject to the control of the Governor General in Council, the Chief Commissioner shall appoint, and may suspend or remove Commissioners, Deputy Commissioners and Assistant Commissioners.

Appointment, suspension, and removal of Táhsíldárs and Náib Táhsíldárs.

8. The Chief Commissioner shall appoint and may suspend or remove Táhsíldárs; and may also make rules for regulating the appointment, duties, suspension and removal of Náib Táhsíldárs.

Persons holding office when Act comes into force.

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Táhsíldárs and Náib Táhsíldárs holding office as such in the territories to which this Act extends when this Act comes[1] into force shall be deemed to have been appointed hereunder.

Power to appoint additional Commissioners, Deputy Commissioners and Táhsíldárs.

10. The Chief Commissioner may appoint any person to be an additional Táhsíldár in any Tahsíl, or, with the sanction of the Governor General in Council, to be an additional Commissioner or additional Deputy Commissioner in any division or district, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner, or additional Deputy Commissioner, to the like sanction.

The Chief Commissioner may invest any additional Commissioner, Deputy Commissioner or Táhsíldár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Táhsíldár as the case may be.

Chief Commissioner may invest Assistant Commissioner with powers of Deputy Commissioner.

11. The Chief Commissioner may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

Officers transferred to retain powers with which they were invested.

12. Whenever any Assistant Commissioner, Táhsíldár or Náib Táhsíldár is transferred from one district or tahsíl to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsíl to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsíl from which he is transferred.

---

1 The Act came into force on 4th November, 1881; *see* Central Provinces Gazette, 1881, Pt. II, p. 176.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act until a successor to the Deputy Commissioner so dying or disabled is appointed and such successor takes charge of his office, or until the person so disabled resumes charge of his office.

Provision for discharge of duties of Deputy Commissioner dying or being disabled.

14. The Chief Commissioner may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsíl, create new districts or tahsíls and abolish existing districts or tahsíls.

Chief Commissioner may alter limits of district or tahsíl.

15. The Chief Commissioner may, subject to the control of the Governor General in Council, invest any Revenue-officer with any of the following powers:—

Power to invest Revenue-officers—

for the purpose of disposing of cases under this Act, any power conferred by the [1]Code of Civil Procedure on a Civil Court;

with power conferred by Code of Civil Procedure;

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act;

with power to delegate powers.

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

16. Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

Power of Deputy Commissioner to distribute work.

(*a*) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal; or

(*b*) direct that any Revenue-officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The Subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

---

[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908).

Power of Superior Revenue-authorities to withdraw and transfer cases.

17. The Chief Commissioner [1][or the Financial Commissioner], the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same.

Power of Revenue-officers to enter on land, etc.

18. All Revenue-officers, and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power for Revenue and Settlement-officers to require attendance of persons and production of documents.

[2]**18-A.** (1) Any Revenue-officer or class of Revenue-officers and any officer appointed to make a settlement may, if specially empowered in this behalf by the Chief Commissioner, order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend either in person or by authorized agent at any specified time and place, and may also direct them to produce any written document in their possession, and all such persons shall be legally bound to obey the order.

(2) The power to require the attendance of parties in person shall, so far as may be, be subject to the provisions of section 176 of the [3] Code of Civil Procedure.

Power to make rules to regulate procedure.

19. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not prescribed by this Act, and may by any such rule direct that any provisions of the [3]Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue-officers.

Persons by whom appearances, and applications may be made before and to Revenue-officer.

20. All appearances before, applications to, and acts to be done before any Revenue-officer under this Act may be made or done—

(*a*) by the parties themselves ; or,

(*b*) with the permission of the officer, by their recognized agents or any legal practitioner :

Obligation of parties to attend in person.

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

---

[1] The words in square brackets were inserted by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 5, with effect from the 10th December, 1908, when that Act was brought into force, *see* note to s. 5, *ante*.

[2] Section 18A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 13.

[3] *See* now the Code of Civil Procedure, 1908 (Act V of 1908).

21. The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed. **Legal practitioner's or agent's fees not allowed unless for special reasons.**

22. An appeal shall lie against every decision or order under this Act— **Appeals.**

(*a*) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner, exercising the powers of a Deputy Commissioner—to the Deputy Commissioner ;

(*b*) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal—to the Commissioner of the division ;

(*c*) when such decision or order is passed on appeal or otherwise by the Commissioner of a division—to the [1] [Financial Commissioner] :

Provided that in no case shall a third appeal be allowed.

23. No appeal shall lie— **Limitation of appeals.**

(*a*) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of ; or

(*b*) in the Court of the Commissioner—after the expiration of sixty days from such date ; or

(*c*) in the Court of the [1] [Financial Commissioner] —after the expiration of ninety days from such date.

In computing such periods of limitation, and in all respects not herein specified the provisions of the Indian Limitation Act, 1877 [2] shall apply. **XV of 1877.**

24. Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit : **Powers of revision of Commissioner and Deputy Commissioner.**

---

[1] The words "Financial Commissioner" were substituted for the words "Chief Commissioner" by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 6, which came into force on the 10th December 1908, *see* note to s. 5 *ante.*

[2] *See* now the Indian Limitation Act, 1908 (IX of 1908).

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of revision of Chief Commissioner.

25. The Chief Commissioner [1][or the Financial Commissioner] may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as he thinks fit:

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner [1][or the Financial Commissioner] has given the parties interested an opportunity of being heard.

Review of orders.

26. Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, orders passed by himself or by any of his predecessors in office:

Provided as follows:—

(1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor he shall first obtain the sanction of the officer to whom he is immediately subordinate:

(2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order:

(3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending:

(4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

---

1 The words in square brackets were inserted by the Central Provinces Financial Commissioner's Act, 1908 (XIII of 1908), s. 5, which was brought into force on the 10th December, 1908, *see* note to s. 5 *ante*.

PART III.

Of Survey and Settlement.

CHAPTER III.

PRELIMINARY.

27. Whenever it appears to the Chief Commissioner that a revenue-survey should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen, may enter upon the lands to be surveyed, and erect survey marks, and do all other acts necessary for making the survey.

Notification of revenue-survey.

Effect thereof.

28. When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in such notification shall—

Notification of settlement.

(*a*) define the local area to be settled;

(*b*) specify the operations which are to be carried out in the settlement;

and may from time to time with the like sanction amend, alter or cancel such notification.

Power to amend notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

29. The Chief Commissioner may from time to time appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area; and, when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement-officer)[1] to control such settlement, and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

Power to appoint Settlement-officers;

The Chief Commissioner may suspend or remove any officer appointed under this section.

and to suspend and remove them.

30. During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the Chief Commissioner may from time to time direct.

Settlement-officer may be invested with powers of Deputy Commissioner.

31. The provisions of section 11 and sections 15 to 26, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant

Certain provisions of Chapter II applied to Settlement-officers.

---

1 Notwithstanding anything contained in s. 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer"—*see* the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 40.

Commissioner" and "Revenue-officer," and the expression "Chief Settlement officer" for the expression "Deputy Commissioner," wherever those expressions occur :

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order :

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

32. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council,—

Appointment of Settlement-commissioner ;

(*a*) appoint a Settlement-commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement ; and

delegation to him of Chief Commissioner's powers.

(*b*) delegate to the Settlement-commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Power to invest Settlement-officers with Civil Court powers.

33. When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement-officer with the powers of any of [1][the last five classes] of Courts described in section 4 of [2][the Central Provinces Civil Courts Act, 1885], and the Chief Settlement-officer with the powers of a Court of a Deputy Commissioner described in the same Act, [3][section 7], for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely) :— XVI of 1885.

(*a*) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like ;

(*b*) suits by lambardars for arrears of revenue payable through them by the proprietors whom they represent ;

(*c*) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts ;

---

[1] These words in square brackets were substituted for the words "the first five grades, etc.," by the Amending Act, 1891 (XII of 1891).

[2] The words in square brackets were substituted for the words and figures the "Cen. Prov. Courts Act, 1865," by the Amending Act, 1891 (XII of 1891).

[3] This word and figure in square brackets were substituted for the words and figures "sections 12, 19 and 20" by the Amending Act, 1891 (XII of 1891)

(*d*) suits by muáfidárs or assignees of revenue for arrears of revenue owing to them as such muáfidárs or assignees;

(*e*) suits by superior proprietors for arrears of revenue due to them as such superior proprietors ;

(*f*) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession ;

(*g*) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance ;

(*h*) suits relating to land, or the rent, profits or occupation of land.

Chief Settlement-officer to have powers of Deputy Commissioner.

34. When the Chief Commissioner invests any subordinate Settlement-officer with the powers of a Civil Court for the trail of any of the suits mentioned in section 33, the Chief Settlement-officer to whom such Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in [1][the Central Provinces Civil Courts Act, 1885, section 16, and section 17, sub-section (*1*), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (*1*)] with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

XVI of 1885.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

35. When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section 33 in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts [2][of the last four classes] aforesaid, by Assistant Commissioners or Tahsíldárs not being Settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Division of civil work between Settlement-officers and ordinary Courts.

36. When any local area is under settlement and the Settlement-officers therein have been invested with powers under section 33, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose

---

[1] These words and figures in square brackets were substituted for the words and figures "the Central Provinces Courts Act, 1865, ss. 12, 19 and 20," by the Amending Act, 1891 (XII of 1891).

[2] These words in square brackets were substituted for the words "the first four grades" by the Amending Act, 1891 (XII of 1891).

of under that section, or he may direct that, in respect of such suits the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts :

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement-officer.

Provisions of section 31 not to apply to certain suits.

37. Nothing in section 31 shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section 33, 34 or 35.

Appeal, reference and revision.

38. Except as provided in sections 33, 34 and 35, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section 22 from such decrees or orders.

Duration of settlement-operations.

39. Every settlement notified under section 28 shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Cases pending at close of settlement operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease, and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the Commissioner of the division directs, or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

CHAPTER IV.

OF DEMARCATION.

Unowned Lands.

Settlement-officer to invite claims to lands appearing to have no owner.

40. When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government, and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

41. Every such notification shall be deemed to be an advertisement under [1]Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*), section 1 ; Application of Act XXIII of 1863.

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act ;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act ; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

42. Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said [1]Act No. XXIII of 1863, section 7, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant ; and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment. Procedure when limited right over land established.

Mahâls.

43. The Settlement-officer may declare any local area to be a mahâl. Power to form mahâls.

Excluded Lands.

44. For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land : Settlement-officer may exclude any town or land from settlement operations.

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section 28 shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

Boundary-marks.

45. When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights in the land comprised in such area, [2][or who are in possession of the whole or any part of the land as gaontias or as thîkadârs of Government land, or as raiyats who have accepted the assessment of a survey-number], to erect boundary-marks of such Erection of new, and repair of existing boundary-marks.

---

1 The Waste Lands (Claims) Act, 1863.

These words in square brackets were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 14.

description and at such places as he thinks necessary in order to define the limits of the mahâls, fields or other lands in their possession, or to repair boundary-marks already existing, and may fix a reasonable time for obeying his order ;

and, if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

CHAPTER V.

OF THE ASSESSMENT OF LAND-REVENUE.

Separate sum to be assessed on every mahál. Progressive assessments.

46. On every mahál a definite and separate sum shall be assessed as land-revenue ; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect :

[Provided that the Chief Commissioner may declare that any mahál which consists wholly or principally of forest is a forest-mahál, and may direct that the assessment shall be a specified share of the gross or net annual value of the produce of the mahál to be determined from time to time for each year, or part of a year, or that the assessment shall be in the form of rates chargeable on the produce of the mahál in each year or part of a year.]

Matters as to which Chief Commissioner is to instruct Settlement-officer.

47. The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

What land taken into account in assessing mahál.

48. In assessing a mahál all land situate therein shall be taken into account except the following (that is to say) :—

(*a*) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands ;

(*b*) land in respect of which the revenue has been redeemed under any rules for the time being in force ;

(*c*) land excluded from assessment under section 44 ;

(*d*) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained;

The Proviso in square brackets to section 46 was inserted by section 15 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889).

(*e*) land which the Chief Commissioner, subject to the control of the Governor General in Council, may from time to time exempt from assessment.

49. The assessment of every mahál shall be offered to the entire proprietary body of such mahál. **Assessment to whom to be offered.**

Provided that, when superior and inferior proprietary rights co-exist in the same mahál, the Settlement-officer may, subject to such rules as the Chief Commissioner may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahál shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahál, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

50. When in a mahál in which superior and inferior proprietors co-exist the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahál is assessed and to the profits to which the superior proprietors are entitled under section 49. **Subsettlement to be made with inferior proprietors when settlement is made with superior.**

51. When in any such mahál the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior proprietors are entitled under section 49 shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Goverrment treasury. **Power to give directions as to payment of certain profits of superior proprietors.**

52. The Chief Commissioner may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the Chief Commissioner. **Power to make rules for reporting assessment for sanction.**

53. In making any offer of assessment, the Settlement-officer shall state that it is made subject to confirmation by the Governor General in Council and also to revision by the Chief Commissioner at any time before such confirmation is received. **Offers of assessment to be made subject to revision and confirmation.**

54. It shall be in the option of the persons to whom an assessment is offered, to accept or refuse the same. **Option to accept or refuse assessment.**

Mode of acceptance.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may, from time to time prescribe in this behalf and deliver the same to the Settlement-officer.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

[1]**55.** Any proprietor who, within such reasonable period as may be specified by the Chief Commissioner, fails to make sign and deliver such acceptance, or to inform the Settlement-officer that the refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

Effect of acceptance of assessment.

[1]**56.** Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect:

Provided as follows:—

Assessment may be rescinded by Chief Commissioner; or by Governor General in Council.

1st, any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor General in Council;

2ndly, the Governor General in Council may rescind any assessment submitted to him for confirmation;

Málguzárs may object to continuance of assessment beyond term of settlement.

3rdly, if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

When assessment is in form of rates Deputy Commissioner to publish record of amount payable.

[2]**56 A.** (1) If the assessment accepted is a specified share of the produce of a forest-mahál to be determined from time to time or in the form of rates chargeable on the produce of a forest-mahál, the Deputy Commissioner shall, from time to time, as the conditions of the assessment may require, notify to the málguzár, on or before such date, or at such intervals as the Chief Commissioner may prescribe, the amount payable in respect of the forest-mahál.

(2) The Deputy Commissioner and his subordinates may at any time enter on the forest-mahál and do all acts necessary for ascertaining the amount payable in respect thereof.

Procedure when assessment is refused.

57. Where there is but one class of proprietors in a mahál, and all refuse to accept in manner required by section 54 the assessment offered, the Settlement-officer may, with the

---

1 As to the application of ss. 55 and 56 to *raiyatwári* settlements, *see* s. 67 G, *infra.*

2 Section 56A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 16.

previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm or take it under direct management.

58. If some of the proprietors consent, and some refuse so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion and either let their lands in farm or take such lands under direct management.

Procedure when only some proprietors accept assessment.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it, the mahál shall be dealt with under the provisions of section 57.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and, if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

59. When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist,—

Procedure on refusal of assessment in village in which superior and inferior rights co-exist.

(*a*) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and, if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section 57;

(*b*) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section 58:

Provided that, if, in the case contemplated by clause (*b*), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

60. If all or any of the inferior proprietors refuse any assessment offered under section 50, the Settlement-officer may exclude them all from the sub-settlement, and assign

Procedure on refusal of assessment by inferior

proprietors.

the proprietary management and profits of the mahál to the superior proprietor for any term not exceeding the term of settlement.

Allowance to excluded proprietors.

61. Any proprietor excluded from settlement under section 57 or section 59, clause (*a*), shall be entitled to receive from the Government an annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent, or more than ten per cent, on the amount of the assessment offered to him by the Settlement-officer.

Excluded proprietors to have occupancy rights in their sír-land.

62. Any proprietor excluded from settlement or sub-settlement under sections 57 to 60, both inclusive, shall be entitled to retain possession of his sír-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

Aggregate amount of allowance granted to and deduction from rent allowed to excluded proprietor.

63. The aggregate amount of any allowance under section 61, and of the difference between the rent fixed under section 62 and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent on the amount of the assessment offered to him by the Settlement-officer.

Sub-settlement with málik-mákbuzás and other like holders of land.

64. The Settlement-officer may make, on behalf of málik-mákbuzás or other like holders of land such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent, as may, in opinion, be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to prov.de for the fees of lambardárs and mukaddams.

Revenue payable under sub-settlement to be first charge on land.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Power to inquire into the claims of thíkádárs, gaontias and farmers.

65 A. (1) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thíkádár, gaontia or farmer, and may, notwithstanding any contract to the contrary, and with the previous sanction of the Chief Commissioner, declare such thíkádár, gaontia or farmer to be "protected" for the purposes of this section :

---

1 The present s. 65A was substituted by s. 3 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the s. 65A inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 17.

Provided that no thíkádár, gaontia or farmer shall be declared to be protected under this section unless he or those from whom he has inherited has or have been in possession of the village or part of the village for a period of not less than twenty years, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost :

Provided also that when a thíkádár, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement-officer may, in his discretion, and with the previous sanction of the Chief Commissioner, instead of declaring him to be protected, confer on him the rights of an occupancy-tenant in respect of the whole or part of any land which he may be cultivating, whether as sír-land or otherwise, at the time of the inquiry, and shall determine the rent payable by him as occupancy-tenant of such land.

(2) When a thíkádár, farmer or gaontia is declared to be protected under this section, the Settlement-officer may, at the request of the proprietor of the village, determine the amount of the thíká-jama which shall be payable by such thíkádár, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(3) Any person who, having held any village or part of a village as a thíkádár, farmer or gaontia, was ejected by the proprietor from, or lost possession otherwise than by transfer or voluntary surrender of, such village or part of a village, and who had at the date of such ejectment or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejectment or dispossession apply to the Settlement-officer to re-instate him in the possession of the village or part of the village from which he was ejected; and the Settlement-officer may, with the previous sanction of the Chief Commissioner, replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant in the whole or part of any land in the village which he was cultivating at the time of his ejectment, and place him in possession of such land and determine the rent which shall be payable by him to the proprietor as such tenant.

Explanation.—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January 1893, applied to a Revenue-officer for re-instatement within two years of his ejectment, shall be deemed to have made the application required by this sub-section.

(4) The incidents of the tenure of a thíkádár (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows :—

(*a*) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree, nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thíkádár's family;

(*b*) when on the death of a thíkádár there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed :

Provided, first, that of such heirs an heir who was joint with the thìkádár shall have preference over an heir who was separate : and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty at the time of succession to resign his right in favour of another heir bearing the same degree of relationship to the deceased thíkádár as he himself bears :

(*c*) a protected thíkádár, whether holding under a written lease or a verbal agreement, shall be entitled to a renewal of his lease on its expiry, on his agreeing to farm his village at a fair and equitable thíká-jama ;

(*d*) in the event of any dispute arising between the proprietor and the protected thíkádár as to what is a fair and equitable thíká-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and Chief Commissioner, be final;

(*e*) not more than one enhancement of the thíká-jama or, where it is so specially provided in the terms of the settlement of the village, no enhancement of the thíká-jama shall be imposed on a protected thíkádàr during the currency of a settlement;

(*f*) all miscellaneous dues and cesses, unless specially authorized by the Chief Commissioner, shall be included in the thíká-jama payable under the lease; and

(*g*) a protected thíkádár shall comply with the rules made under section 124-A for the management of málguzári forests.

(5) In any proceedings before a Court for the ejectment of a thíkádár, gaontia or farmer, if it appears that the thíkádár, gaontia or farmer has filed an application before a Revenue-officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement-officer for disposal.

(6) If any protected thíkádár, gaontia or farmer is shown to have, since the commencement of the Central Provinces Land-revenue Act, 1898, contravened, or to be contravening, the conditions of his tenure as contained in clause (*a*) or clause (*g*) of sub-section (4), or to have grossly mismanaged the village held by him in lease, the Settlement-officer or Deputy Commissioner may, with the previous sanction of the Chief Commissioner, declare such thíkádár, gaontia or farmer to have forfeited the protection previously conferred on him under this section, and such thíkádár, farmer or gaontia shall from the date of such declaration cease to be protected.

XII of 1898.

(7) Nothing in this section shall affect the liability of any protected thíkádár, farmer or goantia to ejectment in execution of a decree for ejectment passed, in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

(*a*) that he has failed to pay the thíká-jama legally payable by him ;

(*b*) that he has diverted the culturable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.

Settlement-officer to apportion assessment over lands held in severalty :

66. When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

When only part of the land comprised in a mahál is held in severalty the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

Settlement-officer to redistribute land according to custom.

67. When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

[1]*Procedure in Raiyatwári Settlements.*

Assessment of raiyatwári villages.

[1] **67 A.** (1) The Chief Commissioner may make rules for the assessment of land held by raiyats direct from the Government.

(2) Such rules may provide for the sub-division of occupied and unoccupied land into survey-numbers, on each of which a separate assessment shall be made :

Provided that no such survey-number shall include land occupied in separate interest by more raiyats than one at the time of its formation.

(3) When the lands of a village have been divided into survey-numbers on each of which a separate assessment has been made, the village may be declared by the Chief Commissioner to be a regularly settled raiyatwári village.

(4) The assessment made on a survey-number may be either fixed or progressive or in the form of rates chargeable according to the results of each year or harvest.

Assessment to whom to be offered.

[1] **67 B.** (1) The assessment of each survey-number in a regularly settled raiyatwári village shall in the first place be offered to the raiyat (if any) holding the survey-number.

(2) If such raiyat refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered—

(*a*) to any co-partner of the ejected raiyat, and, if he also refuses,

(*b*) to any other person.

Assessment of unoccupied survey-numbers.

[1] **67 C.** A survey-number formed from unoccupied land in a regularly settled raiyatwári village may be allotted by the Settlement-officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.

Responsibility of raiyats for assessment.

[1] **67 D.** (1) A raiyat who has accepted the assessment of a survey-number in a regularly settled raiyatwári village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement, unless he or they has or have relinquished the survey number by presenting at the tahsil office a written notice of relinquishment.

(2) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.

Right of raiyat inheritable, but not transferable.

[1] **67 E.** (1) The right of a Government raiyat in a survey-number held by him shall devolve as if it were land, but is not transferable except to a person who, if he survived the raiyat,

---

[1] This heading and ss. 67 A to 67 I were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 18.

would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease to a sub-tenant cultivating under the raiyat.

(2) The right of a raiyat in a survey-number held by him shall not be sold in execution of a decree.

(3) A raiyat is not entitled to claim partition of a survey-number, but the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, partition a survey-number and apportion the assessment between the holders thereof.

(4) Nothing in this section shall affect the rights of raiyats on whom proprietary rights in survey-numbers held by them have been conferred by special orders.

[1] **67 F.** The Chief Commissioner may make rules— Power to make rules for survey-numbers.

(*a*) prescribing the procedure under which unoccupied survey-numbers may be allotted to raiyats during the currency of the term of a settlement;

(*b*) providing for the appointment in the case of survey-numbers held by two or more raiyats in co-partnership, of one of such raiyats to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers;

(*c*) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the raiyat.

[1] **67 G.** The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to raiyatwári settlements made under this Act. Provisions of sections 55 and 56 applicable to raiyatwari settlements.

[1] **67 H.** The land-revenue payable at the commencement of the Central Provinces Land-revenue Act, 1889, by raiyats holding survey-numbers in villages declared to be regularly settled raiyatwári villages, shall be deemed to have been assessed under the provisions of this Act. XVI of 1889. Land-revenue now payable by raiyats to be deemed to be fixed under this Act.

[1] **67 I.** Raiyats who hold Government land not included in a regularly settled raiyatwári village and who are not tenants within the meaning of this Act, shall be liable for the payment of such land-revenue as may be assessed in accordance with rules made under this Act on the land held by them: Raiyats holding Government land not included in raiyatwári villages.

Provided that such a raiyat shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year on account of which the claim for such revenue arises.

[1] These sections were inserted by s. 18 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889).

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT-OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement-officer to ascertain proprietors.

68. The Settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

Determination and record of sír-land.

[1] **69.** (1) The Settlement-officer shall ascertain and determine the extent of all the land which is held as sír-land as defined in section 4A., and which has not lost its character as sír-land under the provisions of section 45 of the Central Provinces Tenancy Act, 1898, and shall record the same as sír-land. XII of 1898.

(2) The Settlement-officer shall also record as sír-land—

(*a*) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been continuously so cultivated for a period of not less than twelve consecutive years ; and

(*b*) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof, and having been broken up from waste-land by such proprietor or one of such proprietors, has since been continuously cultivated by him for a period of not less than six years :

Provided that no land shall be recorded as sír-land under this sub-section if the total area of sír-land within the mahál already exceeds, or will by such record be made to exceed, one-quarter of the total occupied area of the mahál :

Provided, further, that the Settlement-officer may, with the previous sanction of the Commissioner, exempt any mahál or part thereof from this limitation in respect of land falling under clause (*b*) of this sub-section.

(3) When a part of such land as is referred to in sub-section (2) is excluded from the record of sír-land under the proviso to that sub-section, the proprietor shall have the right to choose the particular fields which are to be excluded.

(4) An order or entry of the Settlement-officer recording, or omitting or refusing to record, any land as sír-land under sub-section (1) shall be final unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 83 at any time after the record is attested by the Settlement-officer, or his order regarding the entry is passed,

[1] The present s. 69 was substituted by s. 4 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the s. 69 substituted for the original section by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 19.

and within one year after the settlement comes into effect; and an order or entry recording, or omitting or refusing to record, any land as sír-land under sub-section (2) shall be final unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(5) The Settlement-officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as sír-land under this section, and is situated within the mahál or patti owned wholly or partly by such proprietor.

(6) All land not falling within the purview of section 4A, sub-section (1), shall be presumed, until the contrary is proved, not to be sír-land.

Explanation.—For the purposes of this section the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a málik-mákbuzá.

Settlement-officer to decide disputes among share-holders regarding management of mahal;

70. The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahál are mutually bound as to the granting of pattás the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahál; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

to determine through what lambardàrs revenue shall be paid;

71. The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor, or málik-mákbuzá shall be paid.

to ascertain status and rents of tenants.

72. The Settlement-officer shall ascertain, and record for each mahál, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

Inquiry into claims to hold free from revenue as against Government.

73. The Settlement-officer shall investigate all claims against the Government to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

Power of Chief Commissioner to make rules.

The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Inquiry as to claims to hold free from revenue as against málguzàrs.

74. When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor, whether himself a málguzár or not, who claims to hold it wholly or partially free from revenue

as against the other málguzárs of the mahál, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which the claimant is entitled to such exemption :

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahál in which such land is comprised is sold for arrears of revenue.

Chief Commissioner may make rules for disposal of such cases.

The Chief Commissioner may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from which orders under sections 73 and 74 take effect.

75. When the Settlement-officer decides, under section 73 or section 74, that land which has been held free from revenue, or at less than a full assessment, is liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-officer to decide what village-cesses are leviable;

76. The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village-custom, and the persons by and from whom, and the rates at which, they are leviable ; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine certain disputes.

77. The Settlement-officer may determine disputes regarding any of the following matters (namely):—

(*a*) the right of any lambardár, mukaddam, [1] village-watchman or other village-servant to any customary dues or other remuneration, and his liability to render any customary service in return for such dues or remuneration ;

(*b*) the rights of persons resident in the village, or holding lands comprised in the mahál, in or to the common land of the mahál and its produce, and the village site ;

(*c*) any customs relating to irrigation or to rights-of-way and other easements ;

(*d*) any other rights and customs which the Chief Commissioner directs to be recorded in the administration-paper.

---

[1] The word "patwári" was omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

78. If a dispute arises regarding any matter mentioned or referred to in sections 68, 69, [1][sub-section (1)], 70, 72 and 77, clauses (*b*), (*c*) and (*d*), the Settlement-officer shall decide it summarily after making such inquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party ; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit. **Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*) (*c*) and (*d*).**

79. The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring mahâls, a record-of-right, and shall include in it— **Record-of-rights.**

(*a*) the results of the inquiries made under this Chapter in respect of such mahál or group ; and

(*b*) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

80. The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer. **Chief Commissioner may make rules regarding record-of-rights.**

81. When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody. **Record-of rights to be made over to Deputy Commissioner.**

82. When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown. **Effect of entries in record-of-rights.**

83. Any person deeming himself aggrieved by any decision under section 78, or by any decision of the Chief Settlement officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended : **Suits to contest certain settlement decisions or entries.**

Provided as follows :—

when any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desire and all persons interested in the entry, shall be made parties to the suit :

no persons by whom the record-of-rights was signed, and no persons claiming through or under them, shall, without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section 70 or section 77, clause (*b*), (*c*) or (*d*).

---

1 This word and figure in square brackets were inserted by section 5 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

Revision of record-of-rights by Chief Commissioner.

84. After an assessment has been confirmed by the Governor General in Council, the Chief Commissioner shall not exercise, in respect of any entry of the descriptions referred to in section 83 duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of revision conferred by sections 25 and 31, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands the property of Government.

85. In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

CHAPTER VII.

Of Settlements made before this Act comes into force.

Former settlements deemed to have been made under this Act.

86. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

87. When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims, which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last-mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits for proprietary rights will lie in Civil Courts.

88. Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and, if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

89. When at any settlement made before this Act comes into force málik-mákbuzás have been declared entitled to a portion of the waste-lands comprised in any mahál, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

Chief Commissioner may allot waste-land to málik mákbuzás entitled thereto.

PART IV.

Of Revenue-Administration.

CHAPTER VIII.

Of the Collection of Land-revenue.

90. Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner, at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Power of Chief Commissioner to regulate payment of land-revenue.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

91. When any sum payable under a settlement or sub-settlement [1] * * * * is not paid within the time at which it is payable under section 90, such sum shall be deemed to be an arrear, and all the persons with whom such settlement or sub-settlement [1] * * * * was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

"Arrear" "Defaulters."

[2] *Explanation.*—The term "assigns" in this section includes a mortgagee in possession and a thíkadár.

[3] **91 A.** Without the previous consent of the Deputy Commissioner or of such officer, not being below the rank of Táhsildár, as he may appoint in this behalf, the rents and profits of a mahál or málik-makbuzá holding and the produce of a survey-number shall not be liable to be attached or taken in execution of a decree or order of any Court until the land-revenue chargeable against such rents, profits or produce, and any arrear due in respect of the mahál, holding or survey-number, have been paid.

Avoidance of attachments and executions which forestall land-revenue.

---

[1] The words "or otherwise under an assessment made in accordance with this Act," and the words "or such assessment" which were inserted in s. 91 by s. 20 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), are omitted, as s. 20 has since been repealed by s. 13 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

[2] This *Explanation* was inserted by s. 6 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

[3] Section 91A was inserted by s. 7 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

Realization of Revenue from Málguzárs.

Táhsíldár's statement of account to be conclusive evidence of arrear.

92. A statement of account, authenticated by the signature of the Táhsíldár, shall, for the purposes of this Chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who in respect thereof are defaulters.

Notice of demand.

93. The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for recovery of arrears.

94. An arrear payable directly to Government may be recovered by any one or more of the following processes :—

(*a*) by arresting the defaulter and imprisoning him in the civil jail;

(*b*) by attaching and selling his moveable property ;

(*c*) by attaching the mahál in respect of which the arrear has accrued or the share or land of any málguzár who has not paid the portion of the revenue which, as between him and the other málguzárs, is payable by him, and taking the same mahál, share or land under direct management ;

(*d*) by transferring the share or land of any málguzár who has not paid such portion to any málguzár who has paid the same, or, if every such málguzár declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it ;

(*e*) by annulling the settlement of the mahál in respect of which the arrear has accrued, and taking such mahál under direct management or farming the same ;

(*f*) by selling such mahál, or the share or land of any málguzár who has not paid the portion of the revenue aforesaid ;

(*g*) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued ;

[1](*h*) in the case of a raiyat who has accepted the assessment of a survey-number, by ejecting him from his holding :

Provided as follows :—

(1) the process mentioned in clause (*a*) shall not be issued against any female, minor, lunatic or idiot ;

---

[1] Clause (*h*) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 21.

(2) the processes mentioned in clauses (*d*), (*e*), (*f*) and (*g*) shall not be enforced without the previous sanction of the Chief Commissioner;

(3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (*a*), (*b*) and (*g*) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and imprisonment for recovery of arrear.

95. The process mentioned in section 94, clause (*a*), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsíl.

If, when the defaulter arrives at the tahsíl, the arrear is still unpaid, the Tahsíldár may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the tahsíl for a period of not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in civil jail.

96. If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in such jail, for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit unless within such period the arrear is paid.

Procedure in sales of moveable property.

97. Attachments and sales of moveable property made under this Chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court.

Management of mahál, share or land attached under section 94 (c).

98. After causing any attachment to be made under section 94, clause (*c*), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahál, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Effect of attachment.

99. During the continuance of an attachment under section 98, the defaulter shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as málguzárs or proprietors to any subordinate proprietors or tenants of such land.

Profits of land how applied.

100. The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment, and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment when to cease.

101. The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession :

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer under section 94 (*d*).

102. When it is proposed to execute the process mentioned in section 94, clause (*d*), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

Joint and several liability not affected by transfer.

No proceedings taken under this section shall affect the joint and several liability of the málguzárs of the mahál for arrears accruing in respect of such mahál subsequently to the transfer of the share or land, except that, as regards all such arrears, the transferee shall stand in the place of the málguzár whose share or land is transferred.

Procedure after receipt of sanction to annulment of settlement.

103. When the Chief Commissioner sanctions the annulment of the settlement of any mahál, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the mahál, and either manage the mahál or any portion thereof himself or through an agent,. or let the mahál or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs :

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled ; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a mahál being managed or farmed.

104. When a portion only of the mahál is managed or let in farm under section 103, the rest of such mahál shall be separately re-settled with the proprietors thereof for the remainder of the term of settlement.

Settlement on expiry of management or farm.

105. As soon as the management or farm of any mahál or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section 49 to an offer

of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the mahál; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such mahál or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

106. No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of or upon any land managed or let in farm under this Act, shall, during such management or farm, be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee. Effect of annulment of settlement.

107. No defaulter shall be deprived of the possession of his sír-land in the execution of any of the processes mentioned in section 94, clauses (*c*), (*d*) and (*e*); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for, such land as if he were an absolute occupancy-tenant, at such rent as may be fixed by the Deputy Commissioner. Saving of rights in sír-land.

108. Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser. Nature of estate taken by purchaser of land sold for arrears due thereon.

Nothing in this section shall—

(*a*) affect the rights of any proprietor, superior or inferior to the defaulters, or of any málik-mákbuzá or occupancy-tenant, who does not derive his rights as such proprietor, málik-mákbuzá or tenant from express contract with such defaulters, or any person through whom they claim; or

(*b*) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively; or

(*c*) deprive any defaulter whose property is sold of the rights in respect to his sír-land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

Rules for sale of immoveable property.

109. When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure[1] shall be followed, except in the following particulars (that is to say) :— XIV of 1882.

(*a*) the defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed ;

(*b*) the proclamation directed by the said section 287 shall, when the sale is under clause (*f*), section 94 of this Act, declare that, subject to the provisions of section 108, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement ;

(*c*) the last two clauses of the said section 287 shall not apply ;

(*d*) an appeal from any order under section 312 of the said Code for confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner ;

(*e*) the Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division ;

(*f*) section 309 of the said Code shall be read as if after the words "for such payment" the words "and every sale of such property made after a postponement" were added ;

(*g*) section 313 of the said Code shall not apply to sales under section 94, clause (*f*), of this Act ;

(*h*) section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

Pre-emption at sales.

110. In the course of a sale under section 94, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order :—

(*a*) any málguzár who has paid the revenue which as between him and the other málguzárs is payable by him ;

---

[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908).

(*b*) if the superior proprietorship is sold, the inferior proprietor ;

(*c*) if the inferior proprietorship is sold, the superior proprietor :

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

111. The proceeds of every sale in execution of any process mentioned in section 94 shall be applied first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale ; secondly, to the payment of any other arrear due to Government by the defaulter ; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one to such defaulters according to their respective shares in the property sold. Application of proceeds of sale of immoveable property.

112. The costs of serving a notice of demand under section 93 and of enforcing any process mentioned in section 94 shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued. Costs recoverable as part of arrear.

113. The Chief Commissioner may make rules— Matters as to which Chief Commissioner may make rules.

(*a*) for the guidance of Revenue-officers in issuing notices of demand under section 93 and executing the processes mentioned in section 94 ;

(*b*) defining the classes of officers by whom the processes mentioned in section 94, clauses (*a*) and (*b*), may be enforced ;

(*c*) prescribing the agency by which any of the processes issued under section 94 shall be executed.

114. Notwithstanding anything contained in section 92, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due. Remedies open to person denying that sum demanded as an arrear is due.

Realization of Revenue by Málguzárs.

115. In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,— Limitation of right to set off, etc., in suit for arrears.

(*a*) set off against the plaintiff's demand any sum of money recoverable by him from the plaintiff ; or

(*b*) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

Recovery of arrear through Deputy Commissioner instead of by suit.

116. Any lambardár or sub-lambardár entitled to recover an arrear, of any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons, who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section 114 in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

117. Nothing in the Indian Limitation Act, 1877,[1] and no agreement made after this Act come into force, shall bar the right of the málguzárs of any maháł assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue. XV of 1877.

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

Limitation in suits for revenue.

118. No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.[1] XV of 1877

Interest on Arrears.

Interest on arrears.

119. Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs:

Provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

---

[1] *See* now the Indian Limitation Act, 1908 (IX of 1908)

CHAPTER IX.

OF REVENUE AND VILLAGE RECORDS.

Correction of record of rights.

120. Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds, and on no others :—

(*a*) that all persons interested in such entry wish to have it corrected ; or

(*b*) that by a decree in a suit brought under section 83 it has been declared to be erroneous ; or

(*c*) that, being founded on a decree or order of a Civil Court or on the order of a Revenue or Settlement-officer, it is not in accordance with such decree or order ; or

(*d*) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of record in accordance with provision therein contained.

121. The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

Powers of Deputy Commissioner as to correction of entry or revision of record.

122. When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

123. The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Punishment of violation of such rule or custom.

If any of the persons with whom a settlement or sub-settlement has been made violate or neglect any rule, custom or condition with respect to which the Chief Commissioner

has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Suit to set aside proceedings under section 123.

124. Any person against whom proceedings have been taken under section 123 may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings and direct that any penalty paid by the plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Powers to control management of forests.

124 A[1]. (1) When under any record-of-rights or sanad or any agreement with the Government the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahál is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of such forest-land.

(2) If the proprietor, or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may issue a notice calling on him to show cause, within a reasonable time to be specified in the notice why he should not be excluded from the possession of the forest-land.

(3) If no sufficient cause is shown, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, exclude such proprietor from the possession of the forest-land, and assume the direct management thereof for a term to be fixed by the Chief Commissioner.

(4) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the Chief Commissioner may direct with reference to the amount of their respective interests in the forest or mahál, and shall be realizable as land-revenue.

(5) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

(6) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through or under whom he claims, of, upon or with respect to the forest-land held under direct management, shall be binding upon the Deputy Commissioner during such management.

---

[1]Section 124A was inserted by s. 22 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889).

(7) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under sub-section (1).

(8) On the expiration of the period fixed for the direct management, the forest-land shall be restored to the proprietor, or superior or inferior proprietor, as the case may be.

Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

125. The Chief Commissioner may—

(*a*) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein [1] [from time to time], prepare or, where there is a patwári, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner as the Chief Commissioner may, from time to time, prescribe ;

(*b*) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred to in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Possession of proprietary rights to be notified.

126. All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsíldár of the tahsíl in which such land is situated.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

Notice to be given by guardian in case of minority or idiotcy.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Fine for neglect to give notice of possession.

127. Any person neglecting to give the notice required by section 126 shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Obligation to aid in preparation of village-papers.

128. All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparationof the village-papers prescribed under section 125.

---

1 These words in square brackets were substituted for the words "subsequently to the preparation of the record-of-rights" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 23.

Fees for recording changes:

129. The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of section 125, and may fix the amount of such fees.

from whom leviable.

All fees so leviable shall be levied from the person in whose favour the change is made.

Annual inquiry regarding land held free from revenue.

130. The Deputy Commissioner shall in each year make inquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly, or in part from the payment of revenue.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee he shall report the case through the Commissioner of the division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on expiry of term of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the division for the sanction of the Chief Commissioner.

Inspection of revenue-records.

131. All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE OFFICERS.

Purposes for which when settlement is not in progress Deputy Commissioner shall exercise Settlement-officers' powers.

132. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes :—

(*a*) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair ;

(*b*) assessing land-revenue on lands which are liable to assessment, but have not been assessed ;

(*c*) declaring any local area to be a mahál ;

(*d*) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be re-admitted ;

(*e*) settling mahály in respect of which an application has been made under the third proviso to section 56 ;

(*f*) dealing with claims to hold land wholly or partially free from revenue as against the málguzárs;

(*g*) assessing lands gained by alluvion;

(*h*) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement;

[1](*i*) inquiring into the claims of thíkádárs, gaontias or farmers, declaring them to be protected for the purposes of section 65-A, and, generally, carrying out the provisions of that section; and

[1](*j*) declaring, either on his own motion or on a reference made by a Court or Revenue-officer, land to be sír-land under the provisions of section 69, subsection (2), clause (*b*), and the provisos thereto.

133. The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement-officer by sections 40, 41 and 42; or,

Purposes for which officers may be invested with Settlement-officers' powers.

with the sanction of the Governor-General in Council, with any other of the powers which are by this Act conferred on a Settlement-officer; but not so as to enable him to enhance the amount of an assessment in force under section 56.

134. Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsíldár or Náib Tahsíldár empowered by the Chief Commisioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 434 of the Indian Penal Code, such sum, not exceeding fifty rupees, as may, in the opinion of such officer, be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage.

Cognizance of and penalty for, offence of injuring boundary-marks.

135. Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers [or, in the case of regularly settled raiyatwári villages, of the raiyáts][2] of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

Procedure when person injuring cannot be found.

136. [*Partition of a mahál into two maháls.*] *Rep., Act XVI of* 1889, *s.* 26.

---

[1] Clauses (*i*) and (*j*) were substituted by s. 8 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the cl. (*i*) which was added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889) s. 24.

[2] The words in square brackets were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 25.

[1] CHAPTER X A.

PARTITION.

Perfect and Imperfect partition.

Perfect and imperfect partition.

136. (1) Partition is either perfect or imperfect.

(2) Perfect partition means the division of a mahál into two or more maháls.

(3) Imperfect partition means the division of a mahál into two or more pattís jointly responsible for the revenue assessed on the whole mahál.

Persons entitled to imperfect partition.

136 A. Any recorded co-sharer of a mahál and any person in whose favour a decree has been passed awarding to him a proprietary interest in a mahál, whether such interest consists of a fractional share in the whole mahál or a part of the mahál or of specific lands, is entitled to claim at any time imperfect partition of his share.

Persons entitled to perfect partition.

136 B. Any recorded co-sharer in a mahál, not being a mahál—

(*a*) in the Sambalpúr District, or

(*b*) held by superior and inferior proprietors and which the Chief Commissioner by rule declares to be incapable of perfect partition,

whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahál and is held by him in severalty, is entitled to claim perfect partition of his share at the time of settlement of such mahál.

Jurisdiction of Civil Court barred as to partition.

136 C. No Civil Court shall entertain any suit or application for the imperfect or perfect partition of a mahál.

Imperfect Partition.

Applications for imperfect partition to be made to Deputy Commissioner.

136 D. (1) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahál is situate.

(2) If the mahál is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

Procedure on receipt of application.

136 E. (1) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be in order, and not open to objection on the face of it, publish a notification of the same at his office and at some conspicuous place on the mahál to which the application relates, and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any

[1] Chapter XA was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 26.

co-sharer in possession who may object to the partition to appear before him to state his objection either in person or by a duly authorized agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

(2) Where from any cause notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

Objection to partition.

136 F. If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Objection raising quesiton of title.

136 G. (1) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or may proceed to inquire into the merits of the objection.

(2) In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and of any other party or patries who may be affected thereby.

(3) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the [1]Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII of the same Code[1] relative to arbitration shall apply to such references.

XIV of 1882.

Effect of Deputy Commissioner's orders iu such cases and appeal therefrom.

136 H. (1) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and orders of a Court of Civil Judicature, and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a Court of Civil Judicature of first instance under the Central Provinces Civil Courts Act, 1885[2].

XVI of 1885.

(2) Upon such appeal being made, the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

---

1 *See* now the Code of Civil Procedure, 1908 (Act V of 1908).

2 Act XVI of 1885 has been repealed by Central Provinces Courts Act. 1904 (II of 1904).

Second appeal in such cases.

136 I. From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal, a second appeal shall, where a second appeal is by law allowed, lie to the Court of the Judicial Commissioner under the law for the time being in force relating to second appeals to that Court.

Option to parties to make partition themselves or appoint arbitrators.

136 J. When it has been decided to make a partition under this Chapter, the Deputy Commissioner may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose, or he shall make the partition himself.

Proceeding to be recorded by the Deputy Commissioner before making partition.

136 K. Before commencing to make the partition, the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition, with particulars of the method on which such principles are to be applied.

Each pattí to be made as compact as possible.

136 L. (1) The pattí of each sharer shall be made as compact as possible :

Provided that so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

(2) No partition shall be disallowed solely on the ground of incompactness.

Rule when house of one sharer is included in the patti of another.

136 M. (1) If in making the partition it be necessary to include in any pattí the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose pattí it may fall.

(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

Sír-land belonging to one sharer not to be included without his consent in the pattí of another sharer.

136 N. (1) No sír-land belonging to any co-sharer shall be included in the pattí assigned on partition to another co-sharer, unless with the consent of the co-sharer who cultivates it or unless the partition cannot otherwise be conveniently carried out.

(2) If such land be so included and after partition such co-sharer continues to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land, and his rent shall be fixed by order of the Deputy Commissioner.

Rule as to tanks, wells and other irrigation-works.

136 O. (1) Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made.

(2) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattís into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the porprietors of each pattí may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

136 P. (1) Places of worship and burial-grounds held in common previous to the partition of a mahál shall continue to be so held unless the parties otherwise agree among themselves.

Rule regarding places of worship and burial-grounds.

(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

136 Q. (1) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed.

Deputy Commissioner may dismiss case for non-payment of costs or may quash proceedings.

(2) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

136 R. On completion of the partition, the Deputy commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings, and a partition shall not take effect until it has been sanctioned by him.

Commissioner's sanction to partition necessary.

136 S. (1) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahál of which partitional pattís formed part.

When partition sanctioned, notification to be published.

(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

Perfect Partition.

136 T. (1) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement-officer charged with the settlement of the area in which the mahál is situate.

Applications for perfect partition to be made to Settlement-officer.

(2) Such applications must show that the share which it is desired to have formed into a separate mahál is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

Settlement-officer may declare shares in mahâls to be separate mahâls.

136 U. (1) Subject to any rules which may be made by the Chief Commissioner, the Settlement-officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the share to be a separate mahâl, and may assess it separately to land-revenue :

Provided that no share shall be declared to be a separate mahâl till the proprietors of other shares in the mahâl have been given an opportunity of objecting to its perfect partition.

(2) Except with the sanction of the Commissioner, an incompact estate shall not be declared to be a separate mahâl.

Supplemental Provisions.

Power to make rules regarding partition proceedings.

136 V. The Chief Commissioner may make rules regarding—

(*a*) the form in which applications for partitions shall be made ;

(*b*) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators ;

(*c*) the costs of partition and the mode in which costs are to be apportioned ; and

(*d*) generally, for carrying out the provisions of this Chapter.

Partition may be effected by distribution of mahâls.

[1]**136 W.** Notwithstanding anything contained in this Chapter, when an estate, in respect of the whole or part of which imperfect partition is sought, consists of two or more mahâls, or shares in two or more mahâls, the partition may be effected by the distribution of such mahâls or shares between the co-sharers, without imperfect partition of the mahâls or shares, or partly by such distribution and partly by imperfect partition, as the Deputy Commissioner may, of his own motion, or on the application of the parties, deem fit. In making the partition referred to in this section, the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWĀRIS.

Power to make rules as to officers.

137. The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardârs, sub-lambardârs, [2][mukaddams and patéls] :

---

1 The present s. 136 W was inserted by s. 9 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), in place of the former section, which was inserted as part of Ch. XA by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), but which was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

2 These words in square brackets were substituted for the words " and mukaddams " by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 27 (1).

Provided that, except with the previous sanction of the Governor-General in Council, proprietors, other than málik-mákbuzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambárdars and mukaddams, a sum exceeding five per cent on the land revenue which is assessed on their land, or which, when their land is free from revenue, would in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the Chief Commissioner shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

[1]The lambardár of the village shall ordinarily also be the mukkaddam. When a lambardár who does not reside in the village is appointed mukaddam thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village the non-resident lambardar shall appoint one of them to be his agent unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

[1]An agent appointed under this section shall be deemed to have the powers conferred on, and to be responsible for the performance of the duties prescribed with regard to mukaddams by this Act and the rules made hereunder.

[1]Any fine imposed on such agent for a breach of the provisions of this Act or the rules made hereunder may be recovered from the mukaddam whose agent he is by the Deputy Commissioner.

[1]In a raiyatwári village the patél shall ordinarily be the mukaddam.

Duties of lambardárs.

138. It shall be the duty of every lambardár and sub-lambardár—

(*a*) to collect and pay into the Governmnet treasury so much of the land-revenue as may under section 71 be payable through him either solely or jointly with other lambardárs or sub-lambardárs ;

---

[1] This and the three following paragraphs of s. 137 were substituted for the original last paragraph by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 27 (2). That paragraph was as follows :—

"In every village in which there are resident málguzárs, one of such málguzárs shall be the mukaddam."

(*b*) to collect and pay to the mukaddam, or into the Government treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs, by the proprietors whom he represents, on account of the remuneration of the mukaddam*[1] or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village ;

(*c*) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs may recover fees and other charges from proprietors.

139. Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

(*a*) any remuneration to which they are entitled as such and

(*b*) the sum which, under section 138, they are bound to pay to mukaddams :

Provided that no such recovery shall be made from málik-mákbuzás paying a percentage which includes remuneration to mukaddams and lambardárs.

Deputy Commissioner may alter channel through which málik-mákbuzá pays revenue.

140. On the application of any málik-mákbuzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-mákbuzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Governmnet treasury.

Effect of order for payment of revenue direct to Government.

When the Deputy Commissioner orders such payment to be made into the Government treasury, such portion of the percentage fixed under section 64 as the Deputy Commissioner subject to the Control of the Chief Commissioner, may determine, shall be so paid, and the málik-mákbuzá or other person shall pay the rest to the mukaddam on account of their fees and other village-expenses.

Duties of mukaddams.

141. It shall be the duty of every mukaddam—

(*a*) to control and superintend the [2] * * * * village-watchmen ; to report their deaths or absence from duty ; to maintain them in the possession of any lands appertaining to their office ; to recover and pay to them any cash allowances to which they may be entitled ; and to take such steps as may be necessary to compel them to perform their duties ;

---

1 The word "patwárris" was repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

2 The words "village-patwári and" were repealed by ibid.

(*b*) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf;

(*c*) to report and, if possible, to prevent encroachments on the public paths and roadways in his village;

(*d*) to preserve such stations and marks erected in his village by Government surveyors as may be made over to his care;

(*e*) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition;

(*f*) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled;

(*g*) to collect, or aid in the collection of, all payments due to Government in his village;

(*h*) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

(1) adding to the list of duties which a mukaddam is required to perform under this section; and

(2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (*e*) in respect of such village, and for apportioning such charges among such persons; and

(3) determining the officers to whom reports under this section shall be made.

Liabilities imposed by law on landholders to attach to mukaddams.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, land-holders, their managers and agents and the like, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act:

Provided that nothing herein contained shall discharge landholders, their managers or agents or the like from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred.

143. Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Library

Duties of patél.

[1]**143 A.** It shall be the duty of every patél, in addition to his duties as mukaddam,—

(*a*) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village ;

(*b*) in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of raiyats on waste-land not included in their survey-numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof;

(*c*) to assist the [2] * * village-watchman of his village in the recovery of dues to which [3][he is] entitled ;

(*d*) to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village and to report any such unauthorized cutting in such forests.

Chief Commissioner may make rules as to patwáris.

144. The Chief Commissioner may make rules—

[4][(*a*) providing for the appointment of patwáris in tracts where they have not been already appointed ;]

[5](*b*) regulating the manner in which patwáris are to be selected ; prescribing the conditions under which they may be appointed ; and fixing the limits of their circles and the nature, mode and amount of their remuneration ;

[5](*c*) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwári, when such persons are unable to act ;

[6](*d*) prescribing the fines which may be imposed on patwáris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed.

[7]* * * * * * *

---

1 Section 143A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 28.

2 The words " patwári and " were omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

3 These words " he is " were substituted for the words " they are " by *ibid.*

4 Clause (*a*) was inserted by s. 29 (1) of the Central Provinces Land-revenue Act, 1889 (XVI of 1889).

5 These clauses were originally cls. (*a*) and (*b*) respectively. They were re-lettered as they now stand by s. 29 (2) ibid.

6 This clause was originally cl. (*c*). It was re-lettered as it now stands by s. 29 (2) *ibid.*

7 The proviso to s. 144 was repealed by *ibid.*

145. [*Rules by Chief Commissioner for guidance of Deputy Commissioner.*] *Rep., Act XVI of* 1889, *s.* 30.

146. The Chief Commissioner may make rules prescribing the duties of patwáris— Chief Commissioner may define duties of patwáris.

(*a*) towards the Government; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished;

(*b*) towards the members of the village community [1] * * * * * * * *

All records and papers which patwáris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government. Patwáris' papers to be public documents. I of 1872.

146 A. [*Power to fix amount to be paid by proprietors, tenants and raiyáts for patwáris.*] *Rep. by the Repealing and Amending (Rates and Cesses) Act,* 1907 (*IV of* 1907).

147. Patwáris shall produce at all reasonable times for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers. Patwáris to produce papers for inspection, and to allow copies to be made.

[2]**147 A.** The Chief Commissioner may make rules regarding village-watchmen, and may in the rules— Power to make rules regarding village-watchmen.

(*a*) provide for and regulate their appointment, [3][punishment,] suspension or removal, prescribing the number of village-watchmen who may hold office at one time in a single village, and providing for the appointment of a single village-watchman for two or more villages where such villages would be unable to support separate village-watchmen;

(*b*) determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village community;

[1] The words "and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties" were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 31.

[2] Section 147 A was inserted by *ibid* s. 33.

[3] The word "punishment" was inserted by s. 10 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

(c) define the duties and the mode of supervision of village-watchmen.

Existing officers confirmed.

148. All existing lambardárs, sub-lambardárs, mukaddams, [1][patwáris and village-watchmen] shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act.

Lambardárs' and other officers' dues recoverable as arrears.

149. Any sums which lambardárs, sub-lambardárs, mukaddams [2][and village-watchmen] are entitled to recover or demand under this Chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Holders of sír-land in Sambalpúr to provide for remuneration of mukaddams.

150. In each village of the District of Sambalpúr all persons holding sír-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village; and the Chief Commissioner may make rules for the enforcement of this obligation.

PART V.

CHAPTER XII.

MISCELLANEOUS.

Right to mines, quarries and fisheries.

151. Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers * * * *[3] shall be deemed to belong to Government, and the Government shall have all powers necessary for the proper enjoyment of such rights;

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the [4]Land Acquisition Act, 1870. X of 1870.

---

[1] The words in square brackets were substituted for the words "and patwáris" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 34.

[2] These words were substituted for the words "and patwáris" by *ibid* s. 35.

[3] The words "and the right to extract sap from all palmyra and coconut trees" were repealed by *ibid* s. 36.

[4] *See* now the Land Acquisition Act, 1894 (I of 1894).

152. Except as otherwise hereinbefore provided,—

Exclusive jurisdiction of revenue-authorities.

(*a*) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor General in Council, the Chief Commissioner or a Revenue or a Settlement-officer is, by this Act, empowered to determine or dispose of ; and in particular

Matter excepted from jurisdiction of Civil Courts.

(*b*) no Civil Court shall exercise jurisdiction over any of the following matters :—

(1) any matters provided for in sections 40, 41, 42 and 89 as to waste lands :

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him :

(3) the amount of revenue or rate to be assessed on any mahál, share or portion of a mahál under this or any other Act for the time being in force :

(4) questions as to the validity of any engagement with government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement :

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner :

(6) the amount of the allowance or rent fixed under section 61 or 62 :

(7) the re-distribution according to established custom, by a Settlement-officer, of land comprised in a mahál :

(8) the formation of the record-of-rights, the preparation, signing or attestation of any of the documents contained therein, or
the notification of settlement :

(9) any matters provided for or referred to in section 73, 74 or 130 as to lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land :

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue :

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue :

(12) corrections of entries or revisions of records under sections 120, 121 and 122 :

(13[1]) questions connected with or arising out of the exclusion of a proprietor from forest-land, and the direct management of such land under section 124-A :

(13*a*[1]) the distribution of the land or allotment of the revenue of a mahál by partition; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál or the pattí of another co-sharer :

(14) claims to the office of patwári, lambardár, sub-lambardár, [mukaddam, patél or village watchman,][2] or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof :

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement-officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

For what village-cesses suit lies.

153. No suit shall lie in any Civil or Revenue Court for the recovery of any village cess which has not been sanctioned by the Chief Commissioner and also either recorded at a settlement or under section 132, clause (*h*).

Limitation of claims for compensation in case of waste-land demarcated as property of Government.

154. Whenever, at any settlement made before this Act comes into force, waste lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

Restriction on Revenue and Settlement-officers trading and holding land.

155. No Revenue or Settlement-officer, and no person employed in any Revenue or Settlement-office, shall, except with the express permission of the Chief Commissioner,—

(*a*) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed ;

(*b*) purchase or bid for either in person or by agent, in his own name or in that of another or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

---

1 Clauses 13 and (13*a*) were substituted for the original cl. (13) by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 37.

2 These words were substituted for the words " or mukaddam " by *ibid* s. 38.

The Chief Commissioner may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866[1].

X of 1866. **156.** When any mahál is managed or let in farm under section 57 or 58, or when either of the proclamations mentioned in sections 98 and 103 has been made, all sums due to the proprietor in respect of the mahál, share or land mentioned in any of the said sections, shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement-officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

When mahál managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner. Payment to proprietor in anticipation of due date.

157. When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of balances due by farmers.

[2]**157 A.** Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof, and all moneys falling due to the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.

Recovery of miscellaneous revenue.

158. All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Recovery of revenue due when Act comes into force; and of money payable under Act.

159. All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Past proceedings for collection of revenue legalized.

160. In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Chief Commissioner may empower persons by name, or confer powers on classes.

---

[1] *See* now the Indian Companies Act, 1913 (VII of 1913), which came into force on 1st April, 1914.

[2] Section 157 A was inserted by s. 11 of the Central Provinces Land revenue Act, 1898 (XII of 1898).

Chief Commissioner may vary or cancel orders.

161. The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Penalty for failure to perform duty or abuse of authority by mukaddam or agent.

[1]**161 A.** Any mukaddam or agent of a mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, shall be [2][liable, on the order of a Deputy Commissioner, to a fine] which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.

Penalty for neglecting or disobeying orders of mukaddam or agent.

[1]**161 B.** Any person who neglects or disobeys a reasonable order made by a mukaddam or agent of a mukaddam in pursuance of the duty imposed upon him by section 141, clause (*e*), shall be [2][liable, on the order of a Deputy Commissioner, to a fine] which may extend to twenty rupees, and, if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued.

Chief Commissioner may make rules and attach penalty to breach thereof.

162. The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by the Repealing and Amending Act, 1891 (XII of 1891).

---

[1] Sections 161 A and 161 B were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 39.

[2] The words in square brackets in sections 161 A and 161 B were substituted for the words "punishable with fine" by the Central Provinces Land-revenue Act, 1898 (XII of 1898), s. 12.

THE INDIAN EASEMENTS ACT, 1882.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Savings.
3. Construction of certain references to Act XV of 1877 and Act IX of 1871.

CHAPTER I.

OF EASEMENTS GENERALLY.

4. "Easement" defined.
   Dominant and servient heritages and owners.
5. Continuous and discontinuous, apparent and non-apparent, easements.
6. Easement for limited time or on condition.
7. Easements restrictive of certain rights.
   (*a*) Exclusive right to enjoy.
   (*b*) Rights to advantages arising from situation.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. Who may impose easements.
9. Servient owners.
10. Lessor and mortgagor.
11. Lessee.
12. Who may acquire easements.
13. Easements of necessity and *quasi*-easements.

SECTIONS.

14. Direction of way of necessity.
15. Acquisition by prescription.
16. Exclusion in favour of reversioner of servient heritage.
17. Rights which cannot be acquired by prescription.
18. Customary easements.
19. Transfer of dominant heritage passes easement.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. Rules controlled by contract or title.
    Incidents of customary easements.
21. Bar to use unconnected with enjoyment.
22. Exercise of easement.
    Confinement of exercise of easement.
23. Right to alter mode of enjoyment.
24. Right to do acts to secure enjoyment.
    Accessory rights.
25. Liability for expenses necessary for preservation of easement.
26. Liability for damage from want of repair.
27. Servient owner not bound to do anything.
28. Extent of easements.
    Easement of necessity.
    Other easements—
    (*a*) right of way ;
    (*b*) right to light or air acquired by grant ;
    (*c*) prescriptive right to light or air ;
    (*d*) prescriptive right to pollute air and water ;
    (*e*) other prescriptive rights.
29. Increase of easement.
30. Partition of dominant heritage.
31. Obstruction in case of excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

32. Right to enjoyment without disturbance.
33. Suit for disturbance of easement.
34. When cause of action arises for removal of support.
35. Injunction to restrain disturbance.
36. Abatement of obstruction of easement.

SECTIONS.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

37. Extinction by dissolution of right of servient owner.
38. Extinction by release.
39. Extinction by revocation.
40. Extinction on expiration of limited period or happening of dissolving condition.
41. Extinction on termination of necessity.
42. Extinction of useless easement.
43. Extinction by permanent change in dominant heritage
44. Extinction on permanent alteration of servient heritage by superior force.
45. Extinction by destruction of either heritage.
46. Extinction by unity of ownership.
47. Extinction by non-enjoyment.
48. Extinction of accessory rights.
49. Suspension of easement.
50. Servient owner not entitled to require continuance. Compensation for damage caused by extinguishment.
51. Revival of easements.

CHAPTER VI.

LICENSES.

52. "License" defined.
53. Who may grant license.
54. Grant may be express or implied.
55. Accessory licenses annexed by law.
56. License when transferable.
57. Grantor's duty to disclose defects.
58. Grantor's duty not to render property unsafe.
59. Grantor's transferee not bound by license.
60. License when revocable.
61. Revocation express or implied.
62. License when deemed revoked.
63. Licensee's rights on revocation.
64. Licensee's rights on eviction.

ACT No. V OF 1882.[1]

[THE INDIAN EASEMENTS ACT, 1882.]

[*17th February* 1882.]

An Act to define and amend the law relating to Easements and Licenses.

Preamble.

WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows:—

PRELIMINARY.

Short title.

1. This Act may be called the Indian Easements Act, 1882.

Local extent.

It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg;

Commencement.

and it shall come into force on the first day of July, 1882.

Savings.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed, or to derogate from—

(*a*) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

(*b*) any customary or other right (not being a license) in or over immovable property which the Government, the public or any person may possess irrespective of other immovable property; or

(*c*) any right acquired, or arising out of a relation created, before this Act comes into force.

Construction of certain references to Act XV of 1877 and Act IX of 1871.

[2][**3.** All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877[3], or to sections 27 and 28 of Act No. IX of 1871[4], shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act.]

For Statement of Objects and Reasons, *see Gazette of India*, 1880, Pt. V, p. 494; for Report of the Select Committee, *see ibid.*, 1881, Pt V, p. 1021; and for Proceedings in Council, *see ibid.*, 1881, Supplement, pp. 687 and 766, and *ibid.*, 1882, Supplement, p. 172.

[2] This section was substituted for the original section 3 by the Repealing and Amending Act, 1914 (X of 1914), s. 2 and Sch. I.

[3] Repealed by the Indian Limitation Act, 1908 (IX of 1908).

[4] Repealed by Act XV of 1877.

CHAPTER I.

OF EASEMENTS GENERALLY.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own. "Easement" defined.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner. Dominant and servient heritages and owners

Explanation.—In the first and second clauses of this section the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(*a*) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(*b*) A, as the owner of a certain house, has the right to go on his neighbour B's land and to take water for the purposes of his household out of a spring therein. This is an easement.

(*c*) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(*d*) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(*e*) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(*f*) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B. a lower riparian owner. This is not an easement.

5. Easements are either continuous or discontinuous, apparent or non-apparent. Continuous and discontinuous, apparent and non-apparent, easements.

A continuous easement is one whose enjoyment is or may be continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which upon careful inspection by a competent person would be visible to him.

A non-apparent easement is one that has no such sign.

Illustrations.

(*a*) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(*b*) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(*c*) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(*d*) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easements restrictive of certain rights. Exclusive right to enjoy.

7. Easements are restrictions of one or other of the following rights (namely) :—

(*a*) The exclusive right of every owner of immovable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.

Rights to advantages arising from situation.

(*b*) The right of every owner of immovable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

Illustrations of the rights above referred to.

(*a*) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(*b*) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(*c*) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(*d*) The right of every owner of land to so much light and air as pass vertically thereto.

(*e*) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the "subjacent and the adjacent soil" mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(*f*) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(*g*) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(*h*) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(*i*) The right of every owner of upper land that water naturally rising in, or falling on such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land, to run naturally thereto.

(*j*) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed. Who may impose easements.

Illustrations.

(*a*) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(*b*) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(*c*) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(*d*) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility. Servient owners.

Illustrations.

(*a*) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(*b*) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

Lessor and mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may acquire easements.

12. An easement may be acquired by the owner of the immovable property for the beneficial enjoyment of which the right is created, or on his behalf by any person in possession of the same.

One of two or more co-owners of immovable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immovable property can acquire, for the beneficial enjoyment of other immovable property of his own, an easement in or over the property comprised in his lease.

Easements of necessity and *quasi*-easements.

13. Where one person transfers or bequeaths immovable property to another—

(*a*) if an easement in other immovable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or,

(*b*) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(*c*) if an easement in the subject of the transfer or bequest is necessary for enjoying other immovable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement ; or,

(*d*) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons—

(*e*) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or,

(*f*) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (*a*), (*c*) and (*e*), are called easements of necessity.

Where immovable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(*a*) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(*b*) A. the owner of two fields, sells one to B and retains the other. The field retained was at the date of the sale used for agricultural purposes only, and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(*c*) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(*d*) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(*e*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as

it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(*f*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light and B cannot build on the land so as to obstruct such light.

(*g*) A, the owner of a house. sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(*h*) A, the owner of two adjoining houses, Y and Z, sells Y to B and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(*i*) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(*j*) A, the owner of two adjoining buildings, sells one to B and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(*k*) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(*l*) Under the Land Acquisition Act, 1870,[1] a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding. X of 1870

(*m*) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(*n*) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction of way of necessity.

14. When [2][a right] to a way of necessity is created under section 13, the transferor, the legal representative of the testator or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way ; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition by prescription.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years, and

where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

---

[1] *See* now the Land Acquisition Act, 1894 (I of 1894).

[2] The words "a right" were substituted for the word "right" by the Amending Act, 1891 (XII of 1891).

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II.—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if for the words "twenty years" the words "sixty years" were substituted.

Illustrations.

(*a*) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(*b*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(*c*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

Exclusion in favour of reversioner of servient heritage.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years : but B shows that during ten of these years C had a life-interest in the land ; that on C's death B became entitled to the land ; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which cannot be acquired by prescription.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired :—

(*a*) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed ;

(*b*) a right to the free passage of light or air to an open space of ground ;

(*c*) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise ;

(*d*) a right to underground water not passing in a defined channel.

Customary easements.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Illustrations.

(*a*) By the custom of a certain village every cultivator of village-land is entitled, as such, to graze his cattle on the common pasture. A, having become the tenant of a plot of uncultivated land in the village, breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(*b*) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of dominant heritage passes easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. The rules contained in this Chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument of decree, if any, by which the easement referred to was imposed. **Rules controlled by contract or title.**

And, when any incident of any customary easement is inconsistent with such rules, nothing in this Chapter shall affect such incident. **Incidents of customary easements.**

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage. **Bar to use unconnected with enjoyment.**

Illustrations.

(*a*) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(*b*) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined. **Exercise of easement. Confinement of exercise of easement.**

Illustrations.

(*a*) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(*b*) A has a right annexed to his house to cut thatching grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage. **Right to alter mode of enjoyment.**

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(*a*) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(*b*) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(*c*) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill-paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill-paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(*d*) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

Right to do acts to secure enjoyment.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory rights.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(*a*) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(*b*) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(*c*) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(*d*) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(*e*) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(*f*) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(*g*) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

Liability for expenses necessary for preservation of easement.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work. **Liability for damage from want of repair.**

27. The servient owner is not bound to do anything for the benefit of the dominant heritage and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient. **Servient owner not bound to do anything.**

Illustrations.

(*a*) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the water course or scour the sewer.

(*b*) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(*c*) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(*d*) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(*e*) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect :— **Extent of easements.**

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed. **Easement of necessity.**

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired. **Other easements.**

In the absence of evidence as to such intention and purpose—

(*a*) a right of way of any one kind does not include a right of way of any other kind : **Right of way.**

(*b*) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made : **Right to light or air acquired by grant.**

(*c*) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening **Prescriptive right to light or air.**

is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used :

Prescriptive right to pollute air and water.

(*d*) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose : and

Other prescriptive rights.

(*e*) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right.

Increase of easement.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and, if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(*a*) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(*b*) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(*c*) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of dominant heritage.

30. Where a dominant heritage is divided between two or more persons the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage : provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

Illustrations.

(*a*) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(*b*) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage to draw from the well fifty buckets a day ; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage : provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement. Obstruction in case of excessive user.

Illustration.

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person. Right to enjoyment without disturbance.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto : Provided that the disturbance has actually caused substantial damage to the plaintiff. Suit for disturbance of easement.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(a) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause of action arises for removal of support.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage is actually sustained.

Injunction to restrain disturbance.

35. Subject to the provisions of the Specific Relief Act, 1877, sections 52 to 57 (both inclusive) an injunction may be granted to restrain the disturbance of an easement— I of 1877.

(a) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this Chapter :

(b) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of obstruction of easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

Extinction by dissolution of right of servient owner.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

Illustrations.

(a) A transfers Sultànpur to B on condition that he does not marry C. B imposes an easement on Sultànpur. Then B marries C. B's interest in Sultànpur ends, and with it the easement is extinguished.

(b) A, in 1860, let Sultànpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultànpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultànpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

38. An easement is extinguished when the dominant owner releases it expressly or impliedly to the servient owner. **Extinction by release.**

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(*a*) where the dominant owner expressly authorises an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;

(*b*) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(*a*) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(*b*) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C, B then purports to release the easement. The release is ineffectual.

(*c*) A, having the right to discharge his eavesdroppings into B's yard, expressly authorises B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(*d*) A, having an easement of right to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(*e*) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement. **Extinction by revocation.**

40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled. **Extinction on expiration of limited period or happening of dissolving condition.**

41. An easement of necessity is extinguished when the necessity comes to an end. **Extinction on termination of necessity.**

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction of useless easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction by permanent change in dominant heritage.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(*a*) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used ; or

(*b*) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it ; or

(*c*) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction on permanent alteration of servient heritage by superior force.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement :

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage ; and the provisions of section 14 apply to such way.

Illustrations.

(*a*) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(*b*) Access to a path over which A has a right of way is permannetly cut off by an earthquake. A's right is extinguished.

Extinction by destruction of either heritage.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

Extinction by unity of ownership.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(*a*) A, as the owner of a house, has a right of way over B's field. A mortgages his house and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(*b*) The dominant owner acquires only part of the servient heritage the easement is not extinguished, except in the case illustrated in section 41.

(*c*) The servient owner acquires the dominant heritage in connection with a third person ; the easement is not extinguished.

(*d*) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages ; the easements are not extinguished.

(*e*) The joint owners of the dominant heritage jointly acquire the servient heritage : the easement is extinguished.

(*f*) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires only one of the servient heritages. The easement is not extinguished.

(*g*) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years. Extinction by non-enjoyment.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner ; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner :

Provided that, if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the
877. Indian Registration Act, 1877[1], a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

---

1 Act III of 1877 was repealed and re-enacted by the Indian Registration Act, 1908 (XVI of 1908).

An easement is not extinguished under this section—

(*a*) where the cessation is in pursuance of a contract between the dominant and servient owners;

(*b*) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period; or

(*c*) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of accessory rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient owner not entitled to require continuance.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Compensation for damage caused by extinguishment.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section 45 revives (*a*) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (*b*) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (*c*) when the destroyed heritage is a dominant building and before twenty years have expired, such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage. **Revival of easements.**

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENCES.

52. Where one person grants to another or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a licence. **"Licence" defined.**

53. A licence may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the licence. **Who may grant licence.**

54. The grant of a licence may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a licence. **Grant may be expressed or implied.**

55. All licences necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licences are called accessory licences. **Accessory licences annexed by law.**

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

Licence when transferable.

56. Unless a different intention is expressed or necessarily implied, a licence to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a licence cannot be transferred by the licensee or exercised by his servants or agents.

Illustrations.

(*a*) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immovable property of B. The right cannot be transferred.

(*b*) The Government grant B a licence to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's duty to disclose defects.

57. The grantor of a licence is bound to disclose to the licensee any defect in the property affected by the licence, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not aware.

Grantor's duty not to render property unsafe.

58. The grantor of a licence is bound not to do anything likely to render the property affected by the licence dangerous to the person or property of the licensee.

Grantor's transferee not bound by licence.

59. When the grantor of the licence transfers the property affected thereby, the transferee is not as such bound by the licence.

Licence when revocable.

60. A licence may be revoked by the grantor, unless—

(*a*) it is coupled with a transfer of property and such transfer is in force.

(*b*) the licensee, acting upon the licence, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a licence may be express or implied.

Illustrations.

(*a*) A the owner of a field, grants a licence to B to use a path across it. A, with intent to revoke the licence, locks a gate across the path. The licence is revoked.

(*b*) A, the owner of a field, grants a licence to B to stack hay on the field. A lets or sells the field to C. The licence is revoked.

Licence when deemed revoked.

62. A licence is deemed to be revoked—

(*a*) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the licence :

(*b*) when the licensee releases it, expressly or impliedly, to the grantor or his representative :

(*c*) where it has been granted for a limited period, or required on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled ;

(*d*) where the property affected by the licence is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :

(*e*) where the licensee becomes entitled to the absolute ownership of the property affected by the licence :

(*f*) where the licence is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :

(*g*) where the licence is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist :

(*h*) where the licence totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :

(*i*) in the case of an accessory licence, when the interest or right to which it is accessory ceases to exist.

Licensee's rights on revocation.

63. Where a licence is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's rights on eviction.

64. Where a licence has been granted for a consideration and the licensee without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the licence, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT No. XXI OF 1882.[1]

[THE MADRAS FOREST (VALIDATION) ACT, 1882.]

[*2nd November*, 1882.]

An Act to remove doubts regarding the Madras Forest Act, 1882.

Mad. Act of 1882.

WHEREAS doubts have arisen whether the Madras Forest Act, 1882, is consistent with certain Acts of the Governor General in Council, and it is expedient to remove those doubts ; It is hereby enacted as follows :—

Enactments of the Governor General in Council not to affect the Madras Forest Act.

1. No enactment of the Governor General in Council shall affect, or shall be deemed to have at any time contained anything which would affect the Madras Forest Act, 1882.

---

1 Short title, " The Madras Forest (Validation) Act, 1882 " was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see* Gazette of India, 1882, pt. V, p. 947 : for Proceedings in Council, *see ibid*, 1882, Supplement, pp. 1463, 1493 and 1701.

ACT No. I OF 1883.

[THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.]

[*12th January* 1883.]

* * * * * *

Confirmation and recovery of existing rates.

[1] 41. (1) All rates for the maintenance of roads, schools or the district post for the payment of which provision [is made in any settlement record] shall be deemed to have been legally imposed, and shall be recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

* * * * * *

ACT No. II OF 1884.[3]

[THE MADRAS PARTITION-DEEDS (VALIDATION) ACT, 1884.]

[*18th January* 1884.]

An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby; It is hereby enacted as follows:—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered, under the law in force at the time when they were executed:

---

[1] Section 41, sub-section (1) of this Act is in force in the Taluq as of Nugur, Albaka and Cherla which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor General in Council under s. 4 of the Government of India Act, 1865, with effect from the 1st July 1909, *see* Regulation I of 1909, s. 3.

[2] The words in square brackets were substituted for the words "has been made in any settlement record previous to the passing of this Act." by Act XVI of 1889, s. 41.

[3] Short title "The Madras Partition-deeds (Validation) Act, 1884" was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see* Gazette of India, 1883, Pt. V, p 662; for Proceeding in Council, *see ibid.*, 1883, Supplement, p. 2095 and *ibid.*, 1884 Supplement, p. 164.

Provided that this Act shall not—

(*a*) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(*b*) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(*c*) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (*b*).

2. When any person to whom any right has accrued on the partition, or any person claiming under that person, has, by any such transfer as is mentioned in section 1, clause (*b*), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly or indirectly caused such privation of right, or, if the sharer is dead, from his assets :

Provided that suit be brought * * * *[1] within three years from the date of the transfer if the transfer is made after this Act comes into force.

ACT No. XXI of 1885.[2]

[The Madras Civil Courts Act, 1885.]

[*26th October* 1885.]

An Act to amend the Madras Civil Courts Act, 1873.

I of 1873.

Whereas it is expedient to amend the Madras Civil Courts Act, 1873 ; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Madras Civil Courts Act, 1885. [3] * * * * *

Addition to section 5 of Act III of 1873.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely :—

[*Vide p.* 103 *supra.*]

Addition to section 11 of the same Act.

3. To section 11 of the same Act the following shall be added, namely :—[*Not printed. See foot note No.* 1 *on p.* 104 *supra.*]

---

1 The words "within three years after the date on which this Act comes into force or" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

2 For Statement of Objects and Reasons, *see Gazette of India*, 1885, Pt. V, p. 219 ; for Proceedings in Council, *see ibid.* 1885, Supplement, pp. 859, 897 and 1543.

3 The word "and" and sub-section (2) were repealed by the second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and sch. II.

Amendment of sections 22 and 23 of the same Act.

4. (*a*) In section 22 of the same Act, before the words "be final," and

(*b*) in section 23 of the same Act as amended by Act XIX of 1877,[1] before the words "be suspended or removed," the words "subject to the control of the High Court" shall be inserted.

5. In section 28 of the same Act—

Amendment of section 28 of the same Act.

(*a*) before the words "Subordinate Judge," in both places where they occur, the words "District or" shall be inserted;

(*b*) after the words "rupees fifty" the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

ACT No. V of 1889.[2]

[The Coroners (Madras) ACT, 1889.]

[1*st March* 1889.]

An Act to abolish the Office of Coroner of Madras.

Whereas it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871,[3] the Coroners Act, 1881,[3] and [the Code of Criminal Procedure, 1898];[4] It is hereby enacted as follows:— IV of 1871. X of 1881. V of 1898.

Commencement.

1. This Act shall come into force on such day[5] as the Governor of Fort St. George in Council may, by notification in the Fort St. George Gazette, appoint in this behalf.

Amendment of the Coroners Act, 1871.

2. For section 3 of the Coroners Act, 1871,[3] the following shall be substituted, namely:— IV of 1871.

[*Not printed. See foot-note No.* 3 *below*]

---

1 The Madras Civil Courts (Amendment) Act, 1877.

2 Short title, "The Coroners (Madras) Act, 1889' was given by the Repealing and Amending Act, 1901 (XI of 1901).

For Statement of Objects and Reasons, *see Gazette of India*, 1888, Pt. V, p. 1448; for Proceedings in Council, *see ibid*, 1888, Pt. VI, p. 139, and *ibid*, 1889, Pt. VI, pp. 1, 16, 17 and 42.

3 These Acts do not now apply to the Presidency of Madras.

4 The words in square brackets were substituted by the Repealing and Amending Act, 1903. (I of 1903), s. 3.

5 The Act was brought into force on the 1st June, 1889—*see Fort St. George Gazette*, 1889, Pt. I, p. 335.

X of 1881. **3.** (1) For the preamble to the Coroners Act, 1881,[1] the following shall be substituted, namely :— Amendment of the Coroners Act, 1881.

[*Not printed. See footnote No.* 1 *below*]

(2) [*Repeal of sections* 2, 3 *and* 4 *of Act X of* 1881.] *Rep. by the Repealing and Amending Act,* 1891 (*XII of* 1891).

4. (1) [*Repeal of section* 1 (*e*), *Act X of* 1882.] *Rep. by the Repealing and Amending Act,* 1891 (*XII of* 1891).

V of 1898. (2) Sections 174, 175 and 176 of [the Code of Criminal Procedure, 1898],[2] shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras be read as follows :— Amendment of the Code of Criminal Procedure.

"174. (1) An officer in charge of a police-station, on receiving information that a person— Inquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police station.

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of five or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

"(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

"(3) In any of the following cases, namely :—

(*a*) in any case in which the Local Government may by rule so require,

(*b*) in any case in which death appears to have been caused by violence or there is any doubt regarding the cause of death,

---

1 The Act does not now apply to the Presidency of Madras.

2 The words in square brackets were substituted by the Repealing and Amending Act, 1903 (I of 1903), s. 3.

(*c*) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Government.

"(4) The police-officer may, by order in writing, summon five or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(*a*) the circumstances in which an officer in charge of a police-station after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (*a*), clause (*b*) or clause (*c*) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(*b*) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

Provisions with respect to inquiries by Presidency Magistrates and the disinterment of dead bodies.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (*a*), clause (*b*) or clause (*c*), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall

record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

ACT No. XVI OF 1889.[1]

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1889.]

[*29th October* 1889.]

An Act to amend the Central Provinces Land-Revenue Act, 1881 and the Central Provinces Local Self-Government Act, 1883.

XVIII of 1881. WHEREAS it is expedient to amend the Central Provinces Land-revenue Act, 1881 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1889 ; and Title and commencement.

(2) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Land-revenue Act, 1881. Definition. XVIII of 1831.

3. [*Rep. Act XII of 1898.*]

4. In section 4, clause (3), after the words "proprietors as such of the village," the words "or to their transferees or assignees as such or to the patél," shall be inserted. Amendment of section 4, clause (3).

5. [*Rep. Act XII of* 1898, *s.* 13.]

6. After section 4, clause (6), the following shall be inserted, namely :— New clause inserted after section 4, clause (6).

[(*6a*) *Vide p.* 125 *supra.*]

7. To section 4, clause (7), the words "but does not include a survey-number" shall be added. Amendment of section 4, clause (7).

8. After section 4, clause (8), the following shall be inserted, namely :— New clause inserted after section 4, clause (8).

[(*8a*) *Vide p.* 125 *supra.*]

---

1 This Act amends Act XVIII of 1881 and s. 41 (*1*) of Act I of 1883 which are in force in the Taluqs of Nugur, Albaka and Cherla : *see* note to s. 1 of the former Act.

For Statement of Objects and Reasons, *see Gazette of India* 1889, Pt. V, p. 146 and for Proceedings in Council, *see ibid*, Pt. VI, pp. 121, 181

New clause substituted for section 4, clause (10).

9. For section 4, clause (10), the following shall be substituted, namely :—

[*Vide p.* 126 *supra.*]

New clauses inserted after section 4, clause (13).

10. After section 4, clause (13), the following shall be inserted, namely :—

[(13*a*) *Vide p.* 126 *supra.*]

[(13*b*) *Vide p.* 126 *supra.*]

Amendment of section 4, clause (14).

11. For the *Explanation* to section 4, clause (14), the following shall be substituted, namely :—

[*Vide p.* 126 *supra.*]

12. [*New section substituted for section* 6. *Revenue-officers. Superseded by Act XIII of* 1908, *s.* 1 *infra.*]

New section inserted after section 18.

13. After section 18 the following shall be inserted, namely :—

[18*A*. *Vide p.* 132 *supra.*]

Amendment of section 45.

14. In section 45, after the words "comprised in such area," the words "or who are in possession of the whole or any part of the land as gaontias or as thikadárs of Government land, or as raiyats who have accepted the assessment of a survey-number," shall be inserted.

Amendment of section 46.

15. To section 46 the following shall be added, namely :—

[*Vide p.* 140 *supra.*]

New section inserted after section 56.

16. After section 56 the following shall be inserted, namely :—

56A. [Vide *p.* 142 *supra,*]

17. [*Rep. Act XII of* 1898, *s.* 13.]

New sections inserted after section 67.

18. After section 67 the following shall be inserted, namely :—

[67A to 67 I. *Vide p.* 148–149 *supra.*]

19 & 20. [*Rep. Act XII of* 1898, *s.* 13.]

New clause inserted after section 94, clause (*g*).

21. After clause (*g*) of section 94 the following shall be inserted, namely :—

[94 (*h*) *Vide pp.* 156–157 *supra.*]

Insertion of new section after section 124.

22. After section 124 the following shall be inserted, namely :—

[124 A. *Vide p.* 164–165 *supra.*]

Amendment of section 125, clause (*a*).

23. In section 125, clause (*a*), for the words "subsequently to the preparation of the record-of-rights" the words "from time to time" shall be substituted.

24. [*Rep. Act XII of* 1898, *s.* 13.]

Amendment of section 135.

25. In section 135, after the words "mortgages or farmers" the words "or, in the case of regularly settled raitwari villages, of the raiyats" shall be inserted.

26. * * * * * [1] after section 135 the following shall be inserted, namely :— Repeal of section 136 and substitution therefor of new provisions respecting partition.

[Chapter XA. *Vide p.* 168–172 *supra.*]

27. (1) In the first paragraph of section 137, for the words "and mukaddams" the words "Mukaddams and patéls" shall be substituted. Amendment of section 137.

(2) For the last paragraph of the same section the following shall be substituted, namely :—

[*Vide p.* 173 *supra.*]

28. After section 143 the following shall be inserted, namely :— New section inserted after section 143.

[143A. *Vide p.* 176 *supra.*]

29. (1) In section 144, after the words "may make rules" the following shall be inserted, namely :— Amendment of section 144.

[*Vide p.* 176 *supra.*]

(2) In the same section clauses (*a*), (*b*) and (*c*) shall be read as clauses (*b*), (*c*) and (*d*), respectively. * * * * *[1] * * * *

30. [*Rep. Act XII of* 1891.[

31. [*Rep. Act XII of* 1891.]

32. After section 146 the following shall be inserted, namely :— New section inserted after section 146.

[*Vide p.* 177 *supra.*]

33. After section 147 the following shall be inserted, namely :— New section inserted after section 147.

[147A. *Vide pp.* 177–178 *supra.*]

34. In section 148, for the words "and pátwáris" the words "patwáris and village-watchmen" shall be substituted. Amendment of section 148.

35. In section 149, for the words "and patwáris" the words "and village-watchmen" shall be substituted. Amendment of section 149.

36. [*Rep. Act XII of* 1891.]

37. For clause (13) of section 152 the following clauses shall be substituted, namely :— Amendment of section 152, clause (13).

[(13) & (13*a*) *Vide p.* 180 *supra.*]

38. In clause (14) of section 152, for the words "or mukaddam" the words "mukaddam, patél or village-watchman" shall be substituted. Amendment of section 152, clause (14).

39. After section 161 the following shall be inserted, namely :— New sections inserted after section 161.

[161 A & 161 B *Vide p.* 182 *supra.*]

---

[1] Words repealed by Act XII of 1891 have been omitted.

Power to assign titles to officers appointed to make settlements.

40. Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer."

And whereas it is also expedient to amend the Central Provinces Local Self-government Act, 1883, It is hereby further enacted as follows:— I of 1883.

Amendment of section 41, Act I, 1883.

41. In section 41, sub-section (1), of the said Act, for the words "has been made in any settlement-record previous to the passing of this Act;" the words "is made in any settlement-record" shall be substituted.

THE MADRAS CITY CIVIL COURT ACT, 1892.

CONTENTS.

SECTIONS.

1. Title.
2. Definitions.
3. Constitution of the City Court.
3-A. Power of Local Government to enhance the jurisdiction of the City Court.
4. Appointment, suspension and removal of Judges.
5. Judge of City Court to be Judge of Small Cause Court.
6. Powers of Judges when City Court consists of more than one Judge.
7. Appointment, powers, duties and punishment of ministerial officers.
8. Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.
9. Valuation of immovable property for jurisdictional purposes.
10. Process-fees.
11. Appointment of Receivers.
12. Amendment of Act XV of 1882, section 31.
13. Repayment of half fees on settlement before hearing.
14. Allowance for fees paid in City Court in cases removed to High Court.
15. Appeals.
16. Saving of original civil jurisdiction of High Court.
17. Seal to be used.
18. Holidays and vacations.

ACT No. VII OF 1892.[1]

[THE MADRAS CITY CIVIL COURT ACT, 1892.[2]]

[*12th August* 1892.]

An Act to establish an additional Civil Court for the City of Madras.

WHEREAS it is expedient to establish an additional Civil Court for the City of Madras; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras City Civil Court Act, 1892. **Title.**

* * * * * *[3]

2. In this Act, unless there is something repugnant in the subject or context,— **Definitions.**

(1) "City Court" means the Court established under the next following section :

(2) "City of Madras" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court :

(3) "High Court" means the High Court of Judicature at Madras : and

(4) "Small Cause Court" means the Court of Small Causes of Madras.

3. The Local Government may, by notification in the official Gazette, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits or proceedings which are cognizable— **Constitution of the City Court.**

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the Court for the relief of insolvent debtors, or

(*c*) by the Small Cause Court.

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1891, Pt. V, p. 144; for Preliminary Report to the Select Committee, *see Gazette of India*, 1892, Pt. V, p. 9; for Further Report, *see ibid*, p. 49; and for the Final Report, *see ibid*, p. 59; for Proceedings in Council, *see ibid*, 1891, Pt. VI, p. 119, *ibid*, 1892, Pt. VI, pp. 6, 13, 20, 23, 37, 57 and 61.

[2] *See* also the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1916 (Madras Act V of 1916).

[3] The word "and" and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and Sch. II.

Power of Local Government to enhance the jurisdiction of the City Court.

[1][3 A. Subject to the exceptions specified in section 3 the Local Government may, by notification in the Official Gazette, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the City of Madras and of such value not exceeding ten thousand rupees as may be specified in the notification.]

Appointment, suspension and removal of Judges.

4. The Local Government may, by notification in the official Gazette, appoint so many persons as it may think fit to be Judges of the City Court; and may, for any misconduct by a like notification, suspend or remove any Judge so appointed.

Judge of City Court to be Judge of Small Cause Court.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the Chief Justice of the High Court may require him to perform.

Powers of Judges when City Court consists of more than one Judge.

6. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(*b*) the Local Government may appoint any one of the Judges to be the principal Judge; and

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.

Appointment, powers, duties and punishment of ministerial officers.

7. (1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, may from time to time, with the sanction of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

(2) The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the said Judge or principal Judge may from time to time direct.

(3) The said Judge or principal Judge may, subject to the control of the High Court,—

(*a*) suspend or remove any officer so appointed, or

(*b*) fine any such officer who is guilty of misconduct or neglect in the performance of the duties of his office.

---

1 Section 3-A was inserted by section 2 of the Madras City Civil Court (Amendment) Act, 1934 (Madras Act 1 of 1935).

(4) Any fine imposed on an officer under sub-section (3) may be deducted from his salary.

8. All questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction. Questions arising in suits, etc. under Act to be dealt with according to law administered by High Court.

9. When the subject-matter of any suit or other proceeding is land or a house or a garden, its value for the purposes of the jurisdiction conferred on the City Court by this Act shall, subject to the other provisions of this Act, be fixed in manner provided by the Court-fees Act, 1870, section 7, clause v. Valuation of immovable property for jurisdictional purposes.

VII of 1870.

10. Fees[1] chargeable for serving or executing processes issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the Governor of Fort St. George in Council * * * * *[2]. Process-fees.

11. The powers conferred by Chapter XXXVI of the Code of Civil Procedure[2] on High Courts and District Courts as to the appointment of Receivers, may be exercised by the City Court or any Judge thereof. Appointment of Receivers.

XIV of 1882.

12. In clause (*a*) of section 31 of the Presidency Small Cause Courts Act, 1882, for the words "to the High Court" the words "to the Madras City Civil Court or the High Court of Judicature at Fort William or Bombay, as the case may be," shall be substituted. Amendment of Act XV of 1882, section 31.

XV of 1882.

13. Whenever any suit or proceeding in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court. Repayment of half fees on settlement before hearing.

14. When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December, 1865, or under section 25 of the Code of Civil Procedure,[3] the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jursidiction shall be payable in that Court in respect of the suit and proceedings therein : Allowance for fees paid in City Court in cases removed to High Court.

XIV of 1882.

Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government,

---

1 For fees prescribed for serving and executing processes issued by the Madras City Civil Court, *see Fort St. George Gazette*, 1892, Pt. 1, p. 1553.

2 The words "and the sanction of the Governor-General in Council" were omitted by the Decentralization Act, 1914 (IV of 1914), s. 2 and Schedule.

3 *See* now the Code of Civil Procedure, 1908 (Act V of 1908).

credit shall be given to the plaintiff in the suit for any fee which in the City Court he has already paid under the Court-fees Act, 1870, on the plaint. VII of 1870.

Appeals.

15. (1) The Court authorized to hear appeals from the City Court shall be the High Court.

(2) The period of limitation for an appeal from a decree or order of the City Court shall be the same as that provided by law for an appeal from a decree or order of the High Court in the exercise of its original jurisdiction.

Saving of original civil jurisdiction of High Court.

16. Nothing in this Act contained shall affect the original civil jurisdiction of the High Court :

Provided that—

(1) if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff, and a successful defendant shall be allowed his costs as between attorney and client ;

(2) in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may at any stage thereof make an order transferring the same to the City Court if in his opinion such suit or proceeding is within the jurisdiction of that Court and should be tried therein ;

(3) in any suit or other proceeding so transferred, the Court-fees Act, 1870, shall apply, credit being given for any fees levied in the High Court. VII of 1870.

Seal to be used.

17. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Local Government.

Holidays and vacations.

18. (1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.

(2) Such list, when it has received such approval, shall be published in the official Gazette, and the said holidays and vacations shall be observed accordingly.

THE CENTRAL PROVINCES TENANCY ACT, 1898.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1 Short title, extent and commencement.

2 Definitions.

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

3 Classes of tenants.

B.—Provisions relating to Rent.

4 Presumption as to amount of rent payable.

5 Date from which order fixing rent operates.

6 Time for payment of rents.

7 Rents payable to a number of landlords.

8 Power to deposit rent in certain cases with Revenue-officer.

9 Effect of depositing rent.

10 Penalty for levy of anything in excess of rent by landlord.

11 Presumption as to payments by tenant to landlord.

12 Penalty for refusing receipt or giving defective receipt.

13 Enhancement of rent when productive power of holding increased by landlord.

14 Reduction of rent when effect of improvement ceases.

15 Power to alter rent when holding is increased, diminished or deteriorated.

16 Power to alter rent in case of new assessment.

17 Commutation of rent payable in kind.

18 Remission and suspension of rent consequent on like treatment of land-revenue.

C.—Commissions for dividing or estimating Crops.

19 Commission for dividing or estimating crops.

20 Appointment of assessors, etc.

SECTIONS.

21 Remedy for error in division.

22 Procedure when crop has been estimated or appraised.

D.—Of the Landlord's Lien on the Produce of a Holding.

23 Definition of "produce of a holding."

24 Power of landlord, by notice, to prohibit removal of produce.

25 Effect of instituting suit for rent while notice is in force.

26 Right to reap, etc., produce not affected.

27 Contents and service of notice; time for which it remains in force.

28 Procedure when produce is under attachment.

29 Conflict between rights of superior and inferior landlord.

30 Penalty for illegal distraint by landlord, and for illegal removal of produce.

E.—Of Improvements and Compensation therefor.

31 Right to make improvements.

32 Liability to pay to tenant on ejectment compensation for improvements.

33 Assessment of compensation.

34 Avoidance of provisions barring right to make, or be compensated for, improvements.

Miscellaneous.

35 Surrender of holdings.

36 Surrender of occupancy-tenants' holding.

37 Tenant taking thìkâ or farm.

38 Provisions regarding tenant-right not applicable to tenant ot land in reserved forests.

CHAPTER III.

OF ABSOLUTE OCCUPANCY-TENANTS.

39 Definition of "absolute occupancy-tenant."

40 Rents fixed for period of settlement.

41 Right heritable and transferable after notice to landlord, who may claim to purchase.

SECTIONS.
42 Absolute occupancy-tenant not liable to ejectment.
43 Rent first charge on holding and holding saleable in execution of decree for arrears of rent.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

44 Definition of "occupancy-tenant."
45 Accrual of occupancy-tenant right in sìr-land on transfer of right to occupy as proprietor.
Grant of sanction in certain cases to transfer of the right to occupy sìr-land.
Prohibition in certain cases of registration of documents transferring right to occupy sìr-land.
Partition of undivided share in sìr-land.
Saving of rights of ordinary tenants.
Saving of prior registered documents.
Bar of jurisdiction of Civil Courts.
Exception of bhogra.
46 Devolution of occupancy-right.
Exemption of occupancy-rights from Court sales.
Prohibition of transfer of occupancy-rights.
Prohibition of contracts for future sub-leases.
Prohibition of registration of documents transferring occupancy-rights.
47 Rights of certain persons to apply to set aside transfers.
48 Procedure on application.
49 Rent of occupancy-tenant to be fixed at settlement.
50 Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.
51 Enhancement during settlement in other districts.
52 Grounds for ejectment.
53 Tenant changing land in accordance with village custom.
54 Tenant changing land in other cases.

CHAPTER V.

OF VILLAGE-SERVICE-TENANTS.

55 Definition of "village-service-tenant."
56 Devolution and transfer of village-service-tenant's right.

SECTIONS.

57 Obligation of village-service-tenant to provide substitute.

58 Grounds on which a village-service-tenant may be ejected.

CHAPTER VI.

OF SUB-TENANTS.

59 Definition of "sub-tenants."

60 Tenure according to agreement.

61 Power to declare sub-tenants in certain cases to have rights of ordinary tenants.

CHAPTER VII.

OF ORDINARY TENANTS.

62 Definition of "ordinary tenants."

63 Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

64 Notice of enhancement to be served through Revenue-officer.

65 Liability of tenant to ejectment in default of his agreeing to enhancement.

66 Procedure in ejectment-suit.

67 Rent of ordinary tenant regulated by agreement.

68 Fresh proceedings not to be taken for seven years.

69 Grounds on which an ordinary tenant may be ejected.

70 Devolution of ordinary tenancy.
Exemption of ordinary tenant-rights from Court sales.
Prohibition of transfer or ordinary tenant-rights.
Prohibition of contracts for future sub-leases.
Prohibition of registration of documents transferring ordinary tenant-rights.

71 Right of certain persons to apply to set aside transfers

72 Procedure on application.

73 Obligation of landlord to confer occupancy-rights on ordinary tenant.

CHAPTER VIII.

JURISDICTION AND PROCEDURE.

SECTIONS.

74 Power to direct that suits between landlords and tenants be entered in separate registers.

75 Plaint in such suits.

76 Legal practitioners' fees not allowed unless for special reasons.

77 Set-off when allowed in suits for arrears.

78 Procedure when ordinary tenant in suit pleads excessive rent.

79 Tenants' improvements how to be treated in fixing rents.

80 Interest on arrears.

81 No appeal in certain suits for arrears.

82 Application for execution by sale of holding or by ejectment.

83 Arrears decreed not to be on current year's account.

84 Procedure in execution by sale of holding.

85 Procedure in execution by ejectment.

86 Power of Court to deal with cases of drought or other calamity in suits for arrears.

87 Relief against forfeitures.

88 Rights of ejected tenants in respect of crops and land prepared for sowing.

89 Payment by tenant for occupation of land under section 88.

90 In suits for arrears, all claims between landlord and tenant to be determined.

91 Procedure when, on sale or ejectment, money is due by the landlord to the tenant.

92 Reinstatement of tenant illegally ejected.

93 Applications to measure or ascertain condition of holdings.

94 Limitation in suits under the Act.

95 Jurisdiction of Civil Courts barred in certain cases.

96 Procedure on applications to Revenue and Settlement Officers, and appeals from their orders.

97 Jurisdiction of Civil Courts in suits between landlords and tenants.

98 Recovery of fines and penalties.

CHAPTER IX.

SUPPLEMENTAL.

SECTIONS.

99 Power to Local Government to make rules.
100 Repeals.

THE SCHEDULE.

ENACTMENTS REPEALED.

ACT No. XI OF 1898.[1]

[THE CENTRAL PROVINCES TENANCY ACT, 1898.]

[21*st October* 1898.]

An Act to consolidate and amend the Law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Tenancy Act, 1898.

(2) It extends to all the [2] territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) the expressions "agricultural year," "málik-mák-búzá," "sír-land," "survey-number," "record-of-rights" and "village" have the meanings assigned to them, respectively, in the Central Provinces Land-revenue Act, 1881, XVIII of 18[81] as from time to time amended:

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1897, Pt. V, p. 195; for Report of the Select Committee, *see ibid.*, 1898, Pt. V p. 313, and for Proceedings in Council, *see ibid.*, 1897, Pt. VI, p. 224; 1898, Pt. VI, pp. 369 and 373.

[2] The Act with certain modifications is in force in the Taluqs of Nugur, Albaka and Cherla, which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April, 1909, issued by the Governor-General in Council under s. 4 of the Government of India Act, 1865, with effect from 1st July 1909: *see* Regulation I of 1909, s. 3, *infra*.

(2) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable :

(3) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(4) "improvement" means, with reference to a holding, any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes ; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture ; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord.

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement :

(5) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land :

(6) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be, liable to pay rent for that land ;

(7) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery" :

(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(9) "Revenue-officer" and "Settlement-officer" in any provision of this Act, mean, respectively, such Revenue-officer or Settlement-officer appointed under the Central
XVIII of 1881. Provinces Land-revenue Act, 1881, as from time to time amended, as the Local Government may, by notification in the local official Gazette, direct to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision : and

(10) "tenant" means a person who holds land of another person, and is, or but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thíkádár of proprietary rights :

Explanation I.—An inferior proprietor is not, as such, a tenant:

Explanation II.—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, is a tenant of the farmer or gaontia for the time being.

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

Classes of tenants.

3. There shall be five classes of tenants, namely :—

(1) absolute occupancy-tenants ;

(2) occupancy-tenants ;

(3) village-service-tenants ;

(4) sub-tenants ; and

(5) ordinary tenants.

B.—Provisions relating to rent.

Presumption as to amount of rent payable.

4. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Date from which order fixing rent operates.

5. Save as provided in sections 66 and 78, an order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration, of the holding, from the date of that increase, diminution, or deterioration or from any subsequent day.

Time for payment of rents.

6. Rent shall be payable in such instalments and on such dates as the Local Government may, by notification in the local official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Local Government may, by notification in the local official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or

others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

8. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

Power to deposit rent in certain cases with Revenue-officer.

(*b*) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and,

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

9. (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

Effect of depositing rent.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

10. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenant as compensation.

Penalty for levy of anything in excess of rent by landlord.

Presumption as to payments by tenant to landlord.

11. Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent.

Penalty for refusing receipt or giving defective receipt.

12. A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum, not exceeding double the amount or value of the rent so paid, as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Reduction of rent when effect of improvement ceases.

14. When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may, at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement-officer, as the case may be.

Power to alter rent when holding is increased, diminished or deteriorated.

15. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent in case of new assessment.

16. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

17. (1) In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of sír-land, or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money-rent.

(2) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money-rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

Remission and suspension of rent consequent on like treatment of land revenue.

18. (1) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue :

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period

of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(4) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(5) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by málik-mákbuzás, to revenue and málikáná payable by inferior proprietors, and to thika-jamás payable by thikádárs of proprietary rights, and the provisions of section 10 apply in cases where revenue, málikáná or thika-jamá has been collected in contravention of this section.

C.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

19. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment of assessors, etc.

20. (1) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(2) The Commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

Remedy for error in division.

21. (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled he may, within three months from the date on which the

division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

22. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

D.—Of the Landlord's Lien on the Produce of a Holding.

Definition of "produce of a holding."

23. In sections 24 to 30 (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding ;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

24. Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding :

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Civil Court ; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Effect of instituting suit for rent while notice is in force.

25. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs ; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Right to reap, etc., produce not affected.

26. A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Contents and service of notice ; time for which it remains in force.

27. (1) Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(2) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or, if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid.

Procedure when produce is under attachment.

28. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application ; and

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance, to satisfy the claim.

(2) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlord.

29. Where land is sublet and any conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

30. (1) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and,

where a notice in respect of the produce of a holding has been served under section 27 and is in force, any person

who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section 26 shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

(2) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, 1898, no proceeding under this section shall affect the right of any person to recover compensation in a civil suit. V of 1898.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

31. (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, or of the holding of an ordinary tenant which does not consist entirely of sír-land, the tenant shall be entitled to make impovements.

(2) If the landlord of any such holding as is referred to in sub-section (1) desires that any improvement be made in respect of the holding he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request may, subject to such rules of procedure as the Local Government may, by notification in the local official Gazette, prescribe in this behalf, make the improvement himself.

(3) In respect of the holding of an ordinary tenant, which consists entirely of sír-land, the landlord shall be entitled to make improvements.

Liability to pay to tenant on ejectment compensation for improvements.

32. (1) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act, or with the landlord's consent otherwise than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejectment.

(2) A Civil Court making a decree for the ejectment of a tenant, or a Revenue-officer ordering ejectment in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejectment to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the

improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before the commencement of this Act, in lands other than sír-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

33. (1) The Local Government may, by notification in the local official Gazette, make rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

(*a*) to the amount by which the letting-value or the produce, of the holding, or the value of that produce, is increased by the improvement ;

(*b*) to the labour and capital required for the making of such an improvement ; and

(*c*) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Avoidance of provisions barring right to make, or be compensated for, improvements.

34. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(*a*) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements, on his holding as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

Miscellaneous.

Surrender of holdings.

35. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding :

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year

next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(2) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (*1*), that is to say :—

(*a*) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender ;

(*b*) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate ; and

(*c*) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

(3) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (1) for the rent of his holding.

(4) Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding :

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

Surrender of occupancy-tenant's holding.

36. (1) If an occupancy-tenant surrenders his holding under section 35, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and desirous of being placed in possession of the holding, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(3) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed ; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

(4) Sub-sections (*1*), (*2*) and (*3*) shall not apply in cases where, subject to any rules made by the Local Government in this behalf, a Revenue-officer has decided, after an inquiry made on the application of either landlord or tenant that the surrender is *bonâ fide* and has not been made with the object of evading the provisions of section 45 or section 46.

Tenant taking thiká or farm.

37. When a person, at the time of taking a thíká or farm is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíká or farm.

Provisions regarding tenant-right not applicable to tenant of land in reserved forests.

38. Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the Indian Forest Act, 1878[1].

CHAPTER III.

Of Absolute Occupancy-tenants.

Definition of "absolute occupancy-tenant."

39. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which he, or a person, whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January, 1884, as an "absolute occupancy-raiyat," or in terms equivalent thereto. shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

40. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under the provisions of section 13, section 14, section 15 or section 17.

---

[1] The Act has been repealed. See the Indian Forest Act, 1927 (Act XVI of 1927).

(2) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

41. (*1*) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(*a*) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix ; or

(*b*) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by clause (*a*) of sub-section (3).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and, if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(8) If a person to whom an absolute occupancy-tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejectment of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession on his depositing within a stated period, for payment to the landlord, the costs incurred by the landlord in procuring the ejectment. If the tenant fails to make such application within one year of the ejectment, or if he fails to deposit such costs within the period stated, his tenancy shall be deemed to have lapsed.

Absolute occupancy-tenant not liable to ejectment.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding and holding saleable in execution of decree for arrears of rent.

43. The rent of the holding of an absolute occupancy-tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent thereof.

CHAPTER IV.

Of Occupancy-tenants.

Definition of "occupancy-tenant."

44. Every tenant who, on the first day of January, 1884 had held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nímar and Sambalpúr, shall be deemed to be an occupancy-tenant of that land :

Provided that the land is not—

(*a*) sír-land, or

(*b*) held in lieu of wages, or

(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

45. (1) Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (2), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers his right to occupy sír-land as a proprietor, shall at the date of such loss or transfer become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

Accrual of occupancy-tenant-right in sír-land on transfer of right to occupy as proprietor.

(2) An application by a proprietor for sanction to transfer his sír-land without reservation of the right of occupancy provided for in sub-section (1) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as the Local Government may appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other cases he shall transmit the application to the Local Government, which may sanction the transfer in whole or in part, on the ground that—

Grant of sanction in certain cases oo transfer tf the right to occupy sír-land.

(*a*) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his sír-land, or

(*b*) that the area of the sír-land is too large for the transferor to manage after he has transferred his proprietary rights, or

(*c*) that for any other reason the transfer ought to be permitted.

The Local Government may make rules for the guidance of Revenue-officers dealing with applications under this sub-section.

(3) Notwithstanding anything contained in the Indian Registration Act, 1877,[1] no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his sír-land, without reservation of the right of

III of 1877.

Prohibition in certain cases of registration of documents transferring right to occupy sír-land.

[1] *See* now the Indian Registration Act, 1908 (XVI of 1908).

occupancy provided for in sub-section (1), or to be an agreement for such transfer or surrender, unless sanction to such transfer or surrender has been endorsed on the document in such manner and by such authority as the Local Government may direct.

Partition of undivided share in sír-land.

(4) If there are two or more sharers in any sír-land, and one of them becomes an occupancy-tenant in it under this section, his previous share in such sír-land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy-tenant shall be limited to the land comprised in such share.

Saving of rights of ordinary tenants.

(5) The actual of occupancy-tenant-right under sub-section (1) shall not affect the rights of an ordinary tenant holding any part of the sír-land at the time of such accrual.

Saving of prior registered documents.

[1](6) Nothing in this section shall affect a document duly registered before the commencement of this Act; and, on any surrender or transfer such as is described in sub-section (*1*) being made, decreed or ordered in pursuance of such a document, the rights of the parties to occupy the sír-land shall accrue as if this Act had not been passed.

Bar of jurisdiction of Civil Courts.

(7) No Civil Court shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy sír-land as a proprietor.

Exception of bhogra.

(8) Nothing in this section shall apply to " bhogra " land.

Explanation.—For the purposes of this section a transfer includes a mortgage and a lease.

Devolution of occupancy-right.

46. (1) When an occupancy-tenant dies his right in his holding shall devolve as if it were land :

Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless failing any such co-sharer, he held land, or was permanently resident, in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

Exemption of occupancy-rights from Court sales.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy-tenant in his holding, nor shall such right be sold in execution of any decree or order.

---

1 This sub-section was substituted for the original sub-section (*6*) by Act XXI of 1899, s. 2, with effect from the commencement of this Act (XI of 1898).

(3) No occupancy-tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections: Prohibition of transfer of occupancy-rights.

Provided that an occupancy-tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right of occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose, or who has become by succession a co-sharer therein:

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy-tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding. XIX of 1883. XII of 1884.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections. Prohibition of contracts for future sub-leases.

(5) Notwithstanding anything contained in the Indian Registration Act, 1877,[1] no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy-tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein. III of 1877. Prohibition of registration of documents transferring occupancy-rights.

47. (1) If an occupancy-tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation. Rights of certain persons to apply to set aside transfers.

---

1 *See now* the Indian Registration Act, 1908 (XVI of 1908).

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide whom from among such of them as desire to be placed in possession is first entitled to be so placed:

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and prays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

Rent of occupancy-tenant to be fixed at settlement.

49. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

50. (1) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

(2) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections 13, 14, 15 and 17, the rent payable by any such tenant in respect of a holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been

made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

(*a*) in the districts of Chánda and Nimár, the rate which the Local Government has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the current settlement ;

(*b*) in the district of Sambalpúr, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during settlement in other districts.

51. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced, subject to any rules made under this Act for the local area in which the holding is situate and for the time being in force :

Provided that—

(*a*) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of sections 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits ; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

Grounds for ejectment.

52. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be rejected from his holding by his landlord as such except—

(*a*) as hereinafter provided for arrears of rent ; or

(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

53. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

54. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from

which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

OF VILLAGE-SERVICE-TENANTS.

Definition of "village-service-tenant."

55. A tenant of a holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable terms on condition of rendering village-service is a village-service-tenant.

Devolution and transfer of village-service-tenant's right.

56. (1) When a village-service-tenant dies, resigns or is lawfully dismissed, his right in his village-service-holding shall pass to his successor in office :

Provided that the Local Government may, by general or special order, direct that, where, on the resignation, dismissal or death of a village-watchman or patwari, his successor in office is not his heir the village-service-tenure shall cease, in which case the holding shall be retained in occupancy-tenant right by the late village-service-tenant or shall devolve in occupancy-tenant right on his heir, as the case may be, at a rent which for the remainder of the term of the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service-tenant attempts to effect a transfer of his interest in his village-service-holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service-tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service-tenant shall not be sold in execution of a decree.

Obligation of village-service-tenant to provide substitute.

57. If a village-service-tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

Grounds on which a village-service-tenant may be ejected.

58. (1) A village-service-tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely :—

(*a*) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2) ;

(*b*) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly or, being unable to render it himself, has failed to provide a competent person to render it as required by section 57 ;

(*c*) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which, by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office ;

(*d*) that the tenant has resigned, or been dismissed from, his office.

(2) When a village-service-tenant is ejected from his holding under this section, or when he dies or resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding ; and when a village-service-tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may reinstate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

CHAPTER VI.

Of Sub-tenants.

59. A tenant who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from another tenant, or from a málik-mákbúzá, or from the holder of a survey-number, is a sub-tenant of that land. **Definition of "sub-tenant."**

60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord : **Tenure according to agreement.**

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

61. (1) In any local area in which the Local Government may, by notification in the local official Gazette, declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement-officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government **Power to declare sub-tenants in certain cases to have rights of ordinary tenants.**

may prescribe, be declared by such Revenue-officer or Settlement-officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds :

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenant to show cause against it.

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(3) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenant shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

CHAPTER VII.

Of Ordinary Tenants.

Definition of "ordinary tenants."

62. (1) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service-tenant or a sub-tenant, is an ordinary tenant.

(2) In any local area in which the Local Government may, by notification in the local official Gazette, declare that the provisions of this sub-section are in force, where a person cultivates land not being sír-land under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord.

Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

63. (1) A Settlement-officer shall, unless the Local Government otherwise directs, fix the rents payable by the ordinary tenants of a mahál other than ordinary tenants whose holdings consist entirely of sír-land, and, on and from the date on which the land-revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed.

(2) The rents fixed under sub-section (1) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord.

(3) When by reason of the receipt by the landlord of any consideration, whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement-officer under sub-section (1), the Settlement-officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

(*a*) if the term is fixed by contract, for the term so fixed or for any shorter period;

(*b*) in other cases, for such term as the Settlement-officer, having regard to the circumstances, fixes as fair and equitable;

and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (2):

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made, and, at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

Notice of enhancement to be served through Revenue-officer.

64. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of *sír*-land and whose rent is not fixed by an agreement in writing and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or more than twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Liability of tenant to ejectment in default of his agreeing to enhancement.

65. (1) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(2) If the tenant does not, within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

Procedure in ejectment-suit.

66. (1) If, when application has been made under sub-section (2) of the last foregoing section, the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of

the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(2) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding: Provided that, save where in the Revenue-officer's opinion the existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(3) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(4) If the tenant does not agree to pay the rent determined under sub-section (2), the Revenue-officer may make an order for his ejectment, subject to the provisions of sections 88 and 89 and subject to the deposit by the landlord, within a month from the date of the order, of the amount of compensation (if any) determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejectment shall become void.

Rent of ordinary tenant regulated by agreement.

67. An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Fresh proceeding not to be taken for seven years.

68. When the rent of a tenant has been fixed by a Settlement-officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any) determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise, in respect of such holding be permissible, for a period of seven years from the date on which the settlement made by the Settlement-officer took effect, or from the date of such fixation, agreement, contract or consent, or from the date of such order for ejectment becoming void, as the case may be :

Provided that, where a tenant is holding land under a special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or

of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

69. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except— Grounds on which an ordinary tenant may be ejected.

(*a*) as provided in the case of an occupancy-tenant by section 52 ;

(*b*) in accordance with the provisions of section 66 ;

(*c*) in execution of a decree for ejectment passed on the ground that his holding consists entirely of sír-land.

70. (1) When an ordinary tenant dies, his right in his holding shall devolve as if it were land: Devolution of ordinary tenancy.

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order. Exemption of ordinary tenant-rights from Court sales.

(3) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right or holding or any portion thereof; and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections : Prohibition of transfer of ordinary tenant-rights.

Provided that nothing in this sub-section shall affect the right of the Government to sell the right of an ordinary tenant in his holding for the recovery of an advance made to him
XIX of 1883. under the Land Improvement Loans Act, 1883, or the Agri-
XII of 1884. culturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections. Prohibition of contracts for future sub-leases.

(5) Notwithstanding anything contained in the Indian
III of 1877. Registration Act, 1877,[1] no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer the right of an ordinary tenant in his holding or in any portion thereof. Prohibition of registration of documents transferring ordinary tenant-rights.

1 *See now* the Indian Registration Act, 1908 (XVI of 1908.)

Right of certain persons to apply to set aside transfers.

71. (1) If an ordinary tenant transfers any portion of his rights in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer made within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

72. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed ; and, shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed :

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made, and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

Obligation of landlord to confer occupancy rights on ordinary tenant.

73. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to two-and-a-half times the annual rent payable in respect of the holding together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect

of the holding ; and, when those rights have so been conferred the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section 51, at the rate at which rent was payable by the tenant at the date of the request and tender :

Provided, that the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer, or during the progress of settlement-operations to a Settlement-officer, to fix the rent of the holding for the purposes of this section ; and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant :

Provided, further, that, if the application is made otherwise than during the progress of settlement-operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(2) If a landlord to whom a request and tender are made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement-operations, of a Settlement-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer so applied to, after giving notice of the application to the landlord and hearing him, if he appears, and after making such inquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy-tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) Every person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sír-land.

CHAPTER VIII.

JURISDICTION AND PROCEDURE.

Power to direct that suits between landlords and tenants be entered in separate registers.

74. The Local Government may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the [1]Code of Civil Procedure, but in such other registers as it may prescribe. XIV of 1882

Plaint in such suits.

75. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the [1]Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable. XIV of 1882.

(2) When the land to which the suit relates comprises parts of numbered fields or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed unless for special reasons.

76. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

77. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Procedure when ordinary tenant in suit pleads excessive rent.

78. (1) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of sír-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement-officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined, above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement-officer in proceedings taken before the commencement of this Act only after the landlord had refused to comply with the request of the Settlement-officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable

1 *See now* the Code of Civil Procedure, 1908 (Act V of 1908).

for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year only to the extent of the amount (if any) by which his payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (*2*), but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

Explanation I.—Nothing in this section shall be construed to authorise a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

Explanation II.—A statement made during the progress of settlement-operations by the Settlement-officer, and contained in any return or report prescribed by the Local Government, to the effect that a landlord refused to reduce any rent shall be conclusive proof of such refusal.

Tenants' improvements how to be treated in fixing rents.

79. When the land in respect of which an application is made under section 50 or section 51, or for which a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the land, as cultivated land, shall, notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid, to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made.

Interest on arrears.

80. In suits for arrears, interest on the arrears may be allowed up to the date of institution at such rate, not exceeding twelve per cent per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

81. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the [1]Central Provinces Civil Courts Act, 1885, shall not be subject to appeal, unless— XVI of 1885.

(*a*) the amount or value of the subject-matter of the suit exceeds one hundred rupees ; or

(*b*) a question relating to a title to land or some interest in land has been determined as between parties having conflicting claims thereto.

Application for execution by sale of holding or by ejectment.

82. An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

Arrears decreed not to be on current year's account.

83. No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Procedure in execution by sale of holding.

84. (1) A decree for arrears of rent due in respect of an absolute occupancy-holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a contract specifically affecting the holding, and shall under section 320 of the Code of Civil Procedure be transferred to the Collector for execution. XIV of 1882.

(2) The Collector executing the decree may, notwithstanding anything contained in section 305 of the Code of Civil Procedure, allow the tenant time in which to pay the amount due: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed two months.

Procedure in execution by ejectment.

85. (1) A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a subtenant may be executed by the ejectment of the tenant: Provided that, notwithstanding anything contained in the [2]Code of Civil Procedure, an order for the ejectment of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution. XIV of 1882.

---

[1] Act XVI of 1885 was repealed by the Central Provinces Courts Act, 1904 (II of 1904).

[2] *See now* the Code of Civil Procedure, 1908 (Act V of 1908).

(2) The Revenue-officer on receiving the decree shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due he will be ejected from his holding.

(3) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the provisions of sections 32, 88 and 89, eject the tenant or may, after such inquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment : Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed in the case of an occupancy-holding or an ordinary holding not consisting entirely of sír-land four months, or in the case of an ordinary holding consisting entirely of sír-land or a holding held by a sub-tenant one month.

(4) The Local Government may make rules for the guidance of Revenue-officers executing decrees under this section.

86. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit. **Power of Court to deal with cases of drought or other calamity in suits for arrears.**

(2) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(*a*) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued ; and

(*b*) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

87. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected tenants in respect of crops and land prepared for sowing.

88. The following rules shall be applicable in the case of every tenant ejected from a holding :—

(1) When the tenant has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with a reasonable interest thereon :

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided, also, that the rent, if any, payable to the landlord by the tenant at the time of ejectment may be set off against any sums payable to the tenant under this section.

89. When a landlord elects, under clause (*1*) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable. **Payment by tenant for occupation of land under section 88.**

90. In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such. **In suits for arrears all claims between landlord and tenant to be determined.**

91. (1) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court. **Procedure when, on sale or ejectment, money is due by the landlord to the tenant.**

(2) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant; and, if it is not so paid, the Court shall refuse to make such order.

92. Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with the provisions of this Act, may, on application to a Revenue, officer made within one year from the date of his ejectment be reinstated in possession of such holding or portion : **Reinstatement of tenant illegally ejected.**

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit :

Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof. I of 1877.

93. (1) If any landlord, or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he **Application to measure or ascertain conditions of holdings.**

may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits under the Act.

94. (1) The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected, shall be two years from the date on which he is ejected.

(2) Whenever rent is taken by division of the produce or by estimate or appraisement of the crop, and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent, or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent instalment on account of the harvest to which the crop belongs fell due.

(3) In all other cases the limitation of every suit brought under this Act shall be governed by the [1]Indian Limitation Act, 1877: XV of 1877.

Provided that nothing in sections 7, 8 and 9 of the said Act shall apply to suits for arrears of rent or for the ejectment of a tenant, or to suits for recovery of possession by a tenant against his landlord.

Jurisdiction of Civil Courts barred in certain cases.

95. Save where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement-officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement-officer.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

96. (1) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act and any rules made thereunder, exercise the same powers and follow the same procedure as

---

[1] *See now* the Indian Limitation Act, 1908 (IX of 1908).

they exercise and follow under the Central Provinces Land-revenue Act, 1881, as from time to time amended. XVIII of 1881.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

97. Except as provided in section 95. the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such : **Jurisdiction of Civil Courts in suits between landlords and tenants.**

Provided that—

(*a*) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suits ; and

(*b*) the Local Government may, subject to the other provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

98. Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land-revenue. **Recovery of fines and penalties.**

CHAPTER IX.

SUPPLEMENTAL.

99. The Local Government may, by notification in the local official Gazette, make rules for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder. **Power to Local Government to make rules.**

100. The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof. **Repeals.**

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 100.*)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1883	IX	The Central Provinces Tenancy Act, 1883.	The whole.
1889	XVII	The Central Provinces Tenancy Act, 1889.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Acts IX of 1883 and XVII of 1889.

ACT No. XII OF 1898.[1]

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1898.]

[21*st October* 1898.]

An Act further to amend the Central Provinces Land-revenue Act, 1881.

WHEREAS it is expedient further to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:— XVIII of 1881

Short title and commencement.

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1898; and

(2) It shall come into force at once.

Substitution of new definition of "sír land" for that contained in section 4, clause (*6*), Act XVIII, 1881.

2. In Chapter I of the Central Provinces Land-revenue Act, 1881 (hereinafter referred to as "the said Act"), clause (6) of section 4 is repealed, and after section 4 the following shall be added, namely:—

[4 A. *Vide pp.* 127–128 *supra.*]

Substitution of new section for section 65A, Act XVIII, 1881.

3. For section 65A of the said Act the following shall be substituted, namely:—

[65 A. *Vide pp.* 144–147 *supra.*]

Substitution of new section for section 69, Act XVIII, 1881.

4. For section 69 of the said Act the following shall be substituted, namely:—

[69. *Vide pp.* 150–151 *supra.*]

Amendment, of section 78, Act XVIII, 1881.

5. In section 78 of the said Act, after the figures "69," the word and figure "sub-section (1)," shall be inserted.

Addition of an *Explanation* to section 91, Act XVIII, 1881.

6. To section 91 of the said Act the following *Explanation* shall be added, namely:—

[*Vide p.* 155 *supra.*]

Addition of new section after section 91, Act XVIII, 1881.

7. After section 91 of the said Act the following shall b. added, namely:—

[91 A. *Vide p.* 155 *supra.*]

---

1 This Act amends Act XVIII of 1881 which is in force in the Taluqs of Nugur, Albaka and Cherla, *see* footnote No. 1 on page 124, *supra.*

For Statement of Objects and Reasons, *see Gazette of India*, 1897, Pt. V, p. 142; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 339; and for Proceedings in Council. *see ibid*, Pt VI, 1897, p. 228, and *ibid*, 1898, pp. 370, 388.

8. For clause (*i*) of section 132 of the said Act the following clauses shall be substituted, namely :— Addition to section 132, Act XVIII, 1881.

[*Vide p.* 167 *supra.*]

9. After section 136 V of the said Act the following section shall be added, namely :— Addition of new section after section 136V, Act XVIII, 1881.

[136 W. *Vide p.* 172 *supra.*]

10. In clause (*a*) of section 147A of the said Act, between the words " appointment " and " suspension " the word " punishment " shall be inserted. Rules regarding village-watchmen may provide for their punishment.

11. In Chapter XII of the said Act, after section 157 the following shall be added, namely :— Addition of new section after section 157, Act XVIII, 1881.

[157 A. *Vide p* 181 *supra.*]

12. In sections 161 A and 161 B of the said Act, for the words " punishable with fine " the words " liable, on the order of a Deputy Commissioner to a fine " shall be substituted. Transfer from Criminal to Revenue Courts of power to fine a mukaddam for breach of duty under the Act.

13. Sections 3, 5, 17, 19, 20 and 24 of the Central Provinces Land-revenue Act, 1889, are repealed. Repeals. XVI of 1889

ACT No. XXI OF 1899.[1]

[THE CENTRAL PROVINCES TENANCY (AMENDMENT) ACT, 1899.]

[*8th September* 1899.]

An Act to amend the Central Provinces Tenancy Act, 1898.

XI of 1898. WHEREAS it is expedient to amend the Central Provinces Tenancy Act, 1898 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Central Provinces Tenancy (Amendment) Act, 1899 ; and Short title and commencement.

(2) It shall come into force at once.

---

[1] This Act amends Act XI of 1898 which is in force in the Taluqs of Nugur, Albaka and Cherla, see footnote No. 1 on page 124 *supra.*

For Statement of Objects and Reasons, *see Gazette of India*, 1899, Pt. V, p. 117, and for Proceedings in Council *see ibid*, Pt. VI, pp. 196 and 206.

Substitution of new sub-section for sub-section (*6*), section 45, Act XI, 1898.

2. In section 45 of the Central Provinces Tenancy Act, 1898, for sub-section (*6*) the following sub-section shall be substituted and shall be deemed to have been substituted on and with effect from the commencement of the said Act, namely :

[*Vide p.* 242 *supra.*]

ACT No. IV OF 1907.[1]

[THE REPEALING AND AMENDING (RATES AND CESSES) ACT, 1907.]

[*20th March* 1907.]

An Act to repeal and amend certain Enactments relating to abolished rates and cesses.

WHEREAS certain rates and cesses leviable in the territories specified in the Schedule have been abolished, and it is therefore expedient to repeal or amend the enactments specified in the said Schedule ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Repealing and Amending (Rates and Cesses) Act, 1907.

Enactments in Schedule repealed or modified.

2. The enactments specified in the Schedule shall be repealed or modified to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE.

Number, year and short title.	Sections.	Extent of repeal or modification.
A.—The Presidency of Madras.		
Madras Act IV of 1893 (The Madras Village Cess Act, 1893).	..	The whole Act to be repealed.
Madras Act III of 1895 (The Madras Hereditary Village-offices Act, 1895).	3	For clause (*1*) the following to be substituted :— " (1) hereditary village offices existing in ryotwari villages or inam villages which for the purpose of village administration are grouped with ryotwari villages and belonging to the following six classes, by whatever designation they may be locally known, namely :— (i) village-munsifs, (ii) potels, monigars and peddakapus, (iii) karnams, (iv) nirgantis, (v) vettis, totis and fandalgars, (vi) talayaris. The Local Government shall have power to decide what officers come under any of the above classes."

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1906, Pt. V, p. 51, and for Proceedings in Council, *see ibid*, 1906, Pt. VI, p. 128, and *ibid*, 1907, Pt. VI, p. 31.

Number, year and short title.	Sections.	Extent of repeal or modification.
Madras Act III of 1895 (The Madras Hereditary village offices Act, 1895)—*contd.*	6	In sub-section (1), for the words "In any local area in which the Madras Village-cess Act, 1893, is in force" the words "In any local area in which this Act is in force" to be substituted; and for the words "to which the said Act applies" the words "of the classes defined in section 3, clause (1), of this Act" to be substituted.
		In sub-section (2) for the words "in any village in which the Madras Village-cess Act, 1893, is in force" the words "in any ryotwari village or in any inam village which for the purpose of village administration is grouped with a ryotwari village," to be substituted.
	20	In clause (ix) the words "the Madras Village-cess Act, 1893," to be omitted.

* * * * *

E.—The Chief Commissionership of the Central Provinces.

* * * * *

[3] Act XVIII of 1881 (The Central Provinces Land-revenue Act, 1881).	77	In clause (*a*) the word "patwari" to be omitted.
	138	In clause (*b*) the word "patwaris" to be omitted.
	141	In clause (*a*) the words "village-patwari and" to be omitted.
	143A	In clause (c) the words "patwari and" to be omitted; and for the words "they are" the words "he is" to be substituted.
	146A	The whole section to be repealed.

[4] * * * * *

[1] Parts B, C and D relating to the Presidency of Bombay, the Lieutenant-Governorship of Bengal and the Lieutenant-Governorship of the Punjab and the Chief Commissionership of the North-West Frontier Province are omitted.

[2] Act X of 1878 (The Central Provinces Additional Rates Act, 1878) and Act XVII of 1878 (The Northern India Ferries Act, 1878) do not apply in Madras and have been omitted.

[3] Act XVIII of 1881 is in force in the Taluqs of Nugur, Albaka and Cherla—*see* Regulation I of 1909, s. 3.

[4] Parts F and G relating to the Chief Commissionerships of Coorg and Ajmer-Merwara are omitted.

ACT No. XIII OF 1908.[1]

[THE CENTRAL PROVINCES FINANCIAL COMMISSIONER'S ACT, 1908.]

[*30th October* 1908.]

An Act to provide for the appointment of a Financial Commissioner for the Central Provinces and further to amend the Central Provinces Land-revenue Act, 1881.

WHEREAS it is expedient to appoint a Financial Commissioner for the Central Provinces and further to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:— XVIII of 1881.

Short title and commencement.

1. (1) This Act may be called the Central Provinces Financial Commissioner's Act, 1908; and

(2) It shall come into force on such date as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, direct.

Appointment of Financial Commissioner.

2. (1) There shall be a Financial Commissioner for the Central Provinces.

(2) The Chief Commissioner, [2] * * * * * * * * shall appoint, and may suspend or remove, the Financial Commissioner.

Assignment of powers to Financial Commissioner.

3. The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, assign to the Financial Commissioner, subject to such conditions and restrictions, if any, as the Chief Commissioner with the like sanction may prescribe, all or any powers or functions assigned to the Local Government or to the Chief Commissioner or to the Chief Revenue-authority or the Chief Controlling Revenue-authority by any enactment for the time being in force.

Substitution of new sections for sections 5 and 6, Act XVIII, 1881.

4. For sections 5 and 6 of the Central Provinces Land-revenue Act, 1881, the following shall be substituted, namely:— XVIII of 1881.

[*Vide p.* 129 *supra.*]

---

[1] This Act amends Act XVIII of 1881 which is in force in the Taluqs of Nugur, Albaka and Cherla, *see* foot-note No. 1 on page 124 *supra.*

For Statement of Objects and Reasons, *see Gazette of India*, 1908, Pt. V, p. 352 and for Proceedings in Council, *see ibid*, Pt. VI, pp. 150 and 154.

[2] The words "with the previous sanction of the Governor General in Council" were repealed by Act IV of 1914.

5. In sections 17 and 25 of the said Act, after the words "Chief Commissioner," wherever they occur, the words "or the Financial Commissioner" shall be added. Amendment of sections 17 and 25, Act XVIII, 1881.

6. In sections 22, clause (c), and 23, clause (c), of the said Act, for the words "Chief Commissioner" the words "Financial Commissioner" shall be substituted. Amendment of sections 22 and 23, Act XVIII, 1881.

ACT No. VIII OF 1921.[1]

[THE HINDU TRANSFERS AND BEQUESTS (CITY OF MADRAS) ACT, 1921.]

[27*th March* 1921.]

An Act to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras.

WHEREAS it is expedient to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras ; It is hereby enacted as follows :—

1. This Act may be called the Hindu Transfers and Bequests (City of Madras) Act, 1921. Short title.

2. (1) This Act shall apply to all transfers *inter vivos* and wills made by persons governed by the Hindu law who are domiciled within the limits of the Ordinary Original Civil Jurisdiction of the High Court of Madras. Application and extent.

(2) In the case of transfers *inter vivos* or wills executed before the date of this Act, the provisions of this Act shall apply to such of the dispositions thereby made as are intended to come into operation at a time which is subsequent to the 14th February, 1914 :

Provided that nothing contained in this section shall affect *bona fide* transferees for valuable consideration in whom the right to any property has vested prior to the date of this Act.

Explanation.—Hindus governed by the Marumakkattayam or the Aliyasantana law shall be deemed to be persons governed by the Hindu Law for the purposes of this Act.

[[2] 3. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by Disposition for the benefit of person not in existence.

[1] For Statement of Objects and Reasons *see Gazette of India*, dated 5th March 1921, part V, p. 94. For Proceedings in the Legislative Assembly, see the Legislative Assembly Debates, dated 21st March 1921, p. 1452.

[2] Sections 3 and 4 were substituted for the original sections 3, 4 and 5 by section 13 of the Transfer of Property (Amendment) Supplementary Act, 1929 (XXI of 1929).

transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.

Limitations and conditions.

[1]**4.** The limitations and provisions referred to in section 3 shall be the following, namely :—

(*a*) in respect of disposition by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and IV of 1882.

(*b*) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.] XXXIX of 1925.

ACT No. XXII of 1925. [2]

[The Salt Law Amendment Act, 1925.]

[11*th September* 1925.]

An Act to amend the law relating to salt and salt-revenue.

Whereas, by rules made under section 45-A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor General in Council, and it is, therefore, expedient to amend certain enactments in force in the Presidencies of Fort St. George and Bombay relating to salt, being a subject classified in the aforesaid rules as a central subject, so as to vest in the Governor General in Council powers of control in respect of that subject;
It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Salt Law Amendment Act, 1925.

(2) It shall come into force on such date[3] or dates as the Governor General in Council may appoint, and different dates may be appointed for different provisions of this Act and for different parts of British India.

Repeal and amendment of certain enactments.

2. The Transport of Salt Act, 1879, the Madras Salt Act, 1889, and the Bombay Salt Act, 1890, are hereby amended to the extent and in the manner stated in the Schedule. XVI of 1879. IV of 1889. II of 1890.

Saving of rules, etc., made by previous authorites.

3. Any appointment, notification, rule, order, licence, pass, permit or power in force before the commencement of this Act and made, issued or conferred by an authority, for the making, issuing or conferring of which a new authority is

---

[1] Sections 3 and 4 were substituted for the original sections 3, 4 and 5 by section 13 of the Transfer of Property (Amendment) supplementary Act, 1929 (XXI of 1929).

[2] For Statement of Objects and Reasons *see Gazette of India*, 1925, pt. v, p. 168.

[3] This Act came into force in the Madras Presidency on 1st January 1926.

substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made, issued or conferred by such new authority unless and until cancelled or withdrawn or superseded by an appointment, notification, rule or order made or issued by such new authority.

THE SCHEDULE.

(*See Section* 2.)

PART I.—THE TRANSPORT OF SALT ACT, 1879 (XVI OF 1879).

(1) After section 1 the following section shall be inserted, namely :—

[*Vide* p. 111 *supra.*]

(2) In clauses (*b*) and (*c*) of section 3, for the words "Governor of Bombay in Council" the words "Central Board of Revenue" shall be substituted.

(3) In the third paragraph of section 6, for the words "Local Government" the words "Governor-General in Council" shall be substituted.

PART II.—THE MADRAS SALT ACT, 1889 (IV OF 1889).

(1) For the word "Commissioner," wherever it occurs in the Act, the words "Collector of salt-revenue," shall be substituted.

(2) In section 1, in clause (*l*) of section 3, and in sections 6, 9, 43, 71, 72 and 85, for the words "Governor in Council" the words "Governor-General in Council" shall be substituted.

(3) In clauses (*e*), (*g*) and (*k*) of section 3 and in sections 5, 7, 13, 14, 15, 32, 59 and 85A, for the words "Governor in Council" the words "Central Board of Revenue" shall be substituted,

(4) In section 3—

(*a*) in clause (*h*) for the word "Government" the words "the Central Board of Revenue" shall be substituted ;

(*b*) after clause (*k*) the following clause shall be inserted namely :—

[*Vide Vol.* II, *p.* 468.]

(*c*) in clause (*l*), for the word "officer" the words "Collector of salt-revenue" shall be substituted.

(5) For section 4 the following section shall be substituted, namely :—

[*Vide Vol.* II, *p.* 469.]

(6) In section 5, for the word "his" the word "its" shall be substituted.

(7) In clause (*a*) of section 16, for the words "the Governor in Council" the words "His Majesty" shall be substituted.

(8) In clause (*a*) of section 43, for the word and figure "section 8" the words, letter and figure "clause (*c*) of section 7" shall be substituted.

(9) In section 47, for the words "Whenever any officer of the Salt, Police, Land-revenue, Abkari or Customs Departments, empowered by the Governor in Council in this behalf" the words "When any officer of the Salt or Customs Departments empowered in this behalf by the Central Board of Revenue or any officer of the Police, Land-revenue or Abkari Departments empowered in this behalf by the Central Board of Revenue with the approval of the Governor in Council" shall be substituted.

(10) In section 80, for the words "Fort St. George Gazette," where they first occur, the words "Gazette of India" shall be substituted, and the proviso to the first sentence shall be omitted.

(11) Section 86 shall be renumbered sub-section (1) of section 86 and to the said section as renumbered the following sub-section shall be added, namely :—

[*Vide* Vol. II, p. 489.]

[1][* * * * *]

ACT No. XXXV OF 1925.[2]

[THE MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) ACT, 1925.]

[*23rd September*, 1925.]

An Act to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.

WHEREAS it is expedient to supplement by legislation in the Indian Legislature certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of Madras Act IV of 1920. Bengal Act II of 1922. Bombay Act XIII of 1924.

---

[1] Part III containing *amendments relating* to the Bombay Salt Act, 1890, is omitted.

[2] For Statement of Objects and Reasons, *see Gazette of India*, 1925, Pt. V, p. 195.

the Bombay Children Act, 1924, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.
1. This Act may be called the Madras, Bengal and Bombay Children (Supplementary) Act, 1925.

Madras Act IV of 1920. Bengal Act II of 1922. Bombay Act XIII of 1924.
Validation of certain provisions of Madras Children Act, 1920, Bengal Children Act 1922, and Bombay Children Act, 1924.
2. The Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924, shall, so far as regards the appellate and revisional jurisdiction conferred by the said Acts on the High Courts of Judicature at Madras, at Fort William in Bengal and at Bombay, respectively, be as valid as if the said Acts had been passed by the Indian Legislature.

ACT No. XIV OF 1926.[1]

[THE MADRAS CIVIL COURTS (AMENDMENT) ACT, 1925.]

[*25th March* 1926.]

An Act further to amend the Madras Civil Courts Act, 1873.

III of 1873.
WHEREAS it is expedient further to amend the Madras Civil Courts Act, 1873, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.
1. This Act may be called the Madras Civil Courts (Amendment) Act, 1926.

III of 1873.
Insertion of new section 29 in Act III of 1873.
2. After section 28 of the Madras Civil Courts Act, 1873, the following section shall be inserted, namely :—

[*Vide p.* 110 *supra.*]

ACT No. XVIII OF 1926.[2]

[THE MADRAS CIVIL COURTS (SECOND AMENDMENT) ACT, 1926.]

[*25th March*, 1926.]

An Act further to amend the Madras Civil Courts Act, 1873.

III of 1873.
WHEREAS it is expedient further to amend the Madras Civil Courts Act, 1873, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.
1. This act may be called the Madras Civil Courts (Second Amendment) Act, 1926.

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1926, Pt. V, p. 10.

[2] For Statement of Objects and Reasons, *see Gazette of India*, 1926, Pt. V, p. 80.

Amendment of section 28. Act III of 1873.

2. In section 28 of the Madras Civil Courts Act, 1873, for the words "five hundred" and "two hundred" the words "one thousand" and "three hundred," respectively, shall be substituted. III of 1873.

ACT No. VI OF 1927.[1]

[THE MADRAS SALT (AMENDMENT) ACT, 1927.]

[*3rd April* 1927.]

An Act further to amend the Madras Salt Act, 1889, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Salt Act, 1889, for the purpose hereinafter appearing; it is hereby enacted as follows :— Madras Act IV of 1889.

Short title.

1. This Act may be called the Madras Salt (Amendment) Act, 1927.

Amendment of section 43, Madras Act IV of 1889.

2. In sub-clause (4) of clause B of section 43 of the Madras Salt Act, 1889, for the words "five per centum" the words "such percentage as the Central Board of Revenue may fix" shall be substituted. Madras Act IV of 1889.

ACT No. XIX OF 1928.[2]

[THE MADRAS SALT (AMENDMENT) ACT, 1928.]

[*25th September* 1928.]

An Act further to amend the Madras Salt Act, 1889, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Salt Act, 1889, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Salt (Amendment) Act, 1928. Madras Act IV of 1889.

Amendment of section 49, Madras Act IV of 1889.

2. To section 49 of the Madras Salt Act, 1889 (hereinafter referred to as the said Act), the following paragraph shall be added, namely :— Madras Act IV of 1889.

[*Vide Vol. II, p.* 480.]

Amendment of section 53, Madras Act IV of 1889.

3. In section 53 of the said Act, after the word and figures "section 47" the words and figures "or section 49" shall be inserted.

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1927, Pt. V, p. 48.

[2] For Statement of Objects and Reasons, *see Gazette of India*, 1928, Pt. V, p. 63.

PART III.

REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT. CH. 3)—SINCE REPEALED BY THE GOVERNMENT OF INDIA ACT, 1915 (5 AND 6, GEO. 5, CH. 61)—IN FORCE IN MADRAS.

REGULATION No. I OF 1909.

[THE NUGUR, ALBAKA AND CHERLA LAWS AND CESSES REGULATION, 1909.]

[*Received the assent of the Governor-General on the* 1*st July* 1909; *and published in the* Gazette of India *Extra-ordinary and in the* Fort St. George Gazette *Extraordinary on the* 1*st July* 1909.]

A Regulation to declare the law in force in the Taluqas of Nugur, Albaka and Cherla and to authorize the levy of certain cesses therein and in the Bhadráchalam Taluq.

WHEREAS the taluqas of Nugur, Albaka and Cherla have, in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor-General in Council under section 4 of the Government of India Act, 1865, with effect from the first day of July, 1909, ceased to be subject to the Chief Commissionership of the Central Provinces and become subject to the Government of Madras;

28 & 29 Vict., c. 17.

And whereas it is expedient that the law in force in the territory comprised in the said taluqas should, as far as possible, be the same as the law in force in the taluq of Bhadráchalam in the Godávari District of the Madras Presidency;

And whereas it is also expedient to provide for the cost of maintaining roads and schools in the said taluqas and in the said taluk of Bhadráchalam;

It is hereby enacted as follows:—

Short title. 1. This Regulation may be called the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909.

Laws to be in force. 2. (1) Save as provided in sub-section (2), all enactments and all notifications, orders, schemes, rules, forms, and bye-laws issued, made or prescribed under enactments which immediately before the commencement of this Regulation were in force in the taluq of Bhadráchalam in the Godávari District of the Madras Presidency and not in force in the taluqas of Nugur, Albaka and Cherla (hereinafter referred to as the said taluqas), shall come into force in the said taluqas on the commencement of this Regulation.

(2) Nothing in sub-section (1) shall be deemed to affect the following Acts of the Madras Council, namely:—

Mad. Act II of 1864. (*a*) the Madras Revenue Recovery Act, 1864;

(*b*) the Madras Hereditary Village Offices Act, 1895; and Mad. Act III of 1895.

(*c*) the Madras Estates Land Act, 1908. Mad. Act I of 1908.

Repeal of laws.

3. (1) Save as provided in sub-section (2), all enactments which immediately before the commencement of this Regulation were in force in the said taluqas and not in force in the said taluq of Bhadráchalam shall be deemed to be repealed on and from the commencement of this Regulation in the said taluqas.

(2) Nothing in sub-section (1) shall be deemed to affect the following enactments, namely:—

(*a*) the Central Provinces Land-revenue Act, 1881; XVIII of 1881.

(*b*) the Central Provinces Local Self-government Act, 1883, section 41, sub-section (1); I of 1883.

(*c*) the Agriculturists' Loans Act, 1884, sections 1, 4, 5 and 6; and XII of 1884.

(*d*) the Central Provinces Tenancy Act, 1898: XI of 1898.

Provided that the Central Provinces Land-revenue Act, 1881, and the Central Provinces Tenancy Act, 1898, shall henceforth be construed in the said taluqas subject to the following modifications, namely:—

(*a*) the powers, duties and functions assigned to the Chief Commissioner of the Central Provinces by either of the said Acts or the rules made thereunder shall vest in the Governor of Fort St. George in Council, and, notwithstanding any provision therein subjecting such exercise, discharge or execution to the control, sanction or confirmation of the Governor General in Council, all such powers, duties and functions may be exercised, discharged and executed by the said Governor in Council as he may think fit, or may be delegated by him to any subordinate officer, subject to such limitations as he may think fit;

(*b*) appeals shall lie from the decrees or orders passed by any Court or officer under the provisions of the said Acts to such Courts or authorities and subject to such conditions as the Governor of Fort St. George in Council may by rules prescribe.

Levy of certain cesses.

4. (1) The Governor of Fort St. George in Council may, by notification in the *Fort St. George Gazette*,—

(*a*) direct the levy of cesses on occupied lands in the said taluqas and in the said taluq of Bhadráchalam which shall constitute a fund or funds for the maintenance therein of roads and schools;

(*b*) prescribe by whom, at what rates, in what instalments and at what times such cesses shall be payable and make rules for their assessment and collection, and for the administration of the fund or funds so formed ; and

(*c*) exempt any land from liability to pay the whole or any part of either of such cesses.

(2) Any cess levied under this section shall be recoverable as if it were an arrear of land-revenue :

Provided that the cesses levied under this section shall not in the aggregate exceed the tax which would be leviable on the same land under the Madras Local Boards Act, 1884 [1], if that Act were in force :

Mad. Act V of 1884.

Provided also that no cess shall be levied under this section on any land for any period for which any cess is levied on the same land for the same purpose under the provision of any settlement-record or any tax is levied on the same land under the Madras Local Boards Act, 1884[1].

Pending proceedings.

5. All proceedings pending at the commencement of this Regulation before any authority in the said taluqas shall be disposed of by such authority as the Governor of Fort St. George in Council may direct, and, save as aforesaid, shall be carried on as if this Regulation had not been passed.

REGULATION No. I of 1912.

[The Laccadive Islands and Minicoy Regulation, 1912.]

[*Received the assent of the Governor General on the 22nd January* 1912 ; *published in the* Gazette of India *on the 3rd February* 1912 ; *and in the* Fort St. George Gazette *Extraordinary on the 1st idem.*]

A Regulation to declare the Law applicable to the Laccadive Islands and Minicoy.

Whereas it is expedient to declare the law applicable to the Laccadive Islands and Minicoy ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title and extent.

1. (1) This Regulation may be called the Laccadive Islands and Minicoy Regulation, 1912 ; and

(2) It extends to the Laccadive Islands and Minicoy.

---

[1] Repealed. See now the Madras Local Boards Act, 1920.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(i) "the islands" mean the Laccadive Islands and Minicoy:

(ii) "the Inspecting officer" means any officer directed by the Local Government or Collector to inspect the islands or any of them: and

(iii) words and expressions used herein and defined in the Indian Penal Code have the same meaning respectively attributed to them in that Code. XLV of 1860.

CHAPTER II.

LAW APPLICABLE.

Law applicable.

3. Notwithstanding anything in any enactment now in force, this Regulation, the Madras State Prisoners Regulation, 1819, the State Prisoners Act, 1858, [the Indian Penal Code][1] and the Scheduled Districts Act, 1874, shall be the only enactments in force in the islands. II of 1819. III of 1858. XIV of 1874. XLV of 1860.

CHAPTER III.

CRIMINAL JUSTICE.

4. [*Repealed by Regulation I of* 1926.]

Minor offences and punishment.

[2] **5.** [Whoever—

(*a*) uses abusive language to another,

(*b*) obstructs any person in seizing stray cattle,

(*c*) without reasonable cause fails to attend the kacheri when ordered to do so,

shall be punishable with imprisonment for a term which may extend to fifteen days, or with fine which may extend to fifteen rupees, or with both.]

6. [*Repealed by Regulation I of* 1926.]

Failure to give information of birth or death.

7. Whoever fails to give information of a birth or death in his house shall be punishable with fine which may extend to five rupees.

Failure to obey reasonable order of amin.

8. (1) Whoever, when ordered to do so by the amin,—

(*a*) fails to assist in launching or drawing up a boat,

(*b*) fails to attend when called upon to assist in protecting cocoanut plantations from the ravages of rats,

shall be punishable with fine which may extend to two rupees:

Provided that a fine imposed under clause (*b*) may be refunded if the offender within forty-eight hours makes reparation to the satisfaction of the amin and assessors.

---

[1] The words "the Indian Penal Code" were inserted by section 2 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Regulation 1 of 1926).

[2] Section 5 was substituted for the original section by section 4 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Regulation 1 of 1926).

[1][(2) Whoever disobeys any reasonable order of an amin or other public servant, or acts in such a manner as to bring into contempt the authority of such amin or other public servant, shall, in cases not punishable under the Indian Penal Code or under sub-section (1), be punishable with imprisonment which may extend to fifteen days, or with fine which may extend to fifteen rupees, or with both.]

XLV of 1860.

Other offences.

[2] [8 A. Subject to the control of the Governor-General in Council, the Governor in Council may, by notification in the *Fort St. George Gazette*, add to the list of offences specified in sections 5, 7 and 8, and prescribe punishments for the offences so added.]

Jurisdiction, powers and constitution of the Court of the amin ; reference in certain cases to superior officer.

[3][9. (1) The local amin of each island shall have jurisdiction to try persons accused of any of the following offences in the island, namely :—

(*a*) offences specified in sections 5, 7 and 8 ;

(*b*) offences which, if committed in an area in which the Code of Criminal Procedure, 1898, is in force, would be triable by a Magistrate of the third class under that Code, and offences punishable under section 224 or section 500 of the Indian Penal Code ;

V of 1898.

XLV of 1860.

(*c*) any other offence which the Governor in Council may, by notification in the *Fort St. George Gazette*, declare to be triable by an amin.

(2) The amin may inflict on persons found guilty of any of the offences triable by him under the provisions of sub-section (1) the punishment prescribed therefor :

Provided that he shall not pass any sentence of imprisonment exceeding fifteen days, or of fine exceeding fifteen rupees.

(3) For the conduct of trials under this section the amin shall sit with four or more assessors called karnavars in the islands. Such assessors shall be specially appointed by the Collector or Inspecting officer for life, subject to good behaviour.

(4) If the amin is of opinion that an accused person tried before him is guilty of an offence triable by him under the provisions of sub-section (1), and that such person ought to receive a more severe punishment than he is empowered to inflict, he shall submit his proceedings, and forward the accused, to the Inspecting officer or the Collector, who may pass such order as he thinks fit. If the Inspecting officer or the Collector finds the accused guilty of the offence, he may inflict any punishment prescribed therefor.]

1 Sub-section 2 of section 8 was substituted for the original sub-section by section 6 of the Laccadive Islands and Municoy (Amendment) Regulation, 1926 ; (Regulation 1 of 1926.)

2 Section 8 A was inserted by section 7 *ibid.*

3 Section 9 was substituted for the original section by section 8 *ibid.*

Procedure of amin in criminal cases.

10. (1) The amin may take cognizance of cases on complaint or on his own initiative.

(2) In every case the amin shall make a memorandum of the evidence of the prosecution witnesses, the plea of the accused, and the evidence of the defence witnesses.

(3) The evidence shall be taken in the presence of the accused, and the accused and the complainant shall be allowed to cross-examine the witnesses for the other side.

(4) The amin shall deliver a written judgment, recording therein the opinions of the assessors sitting with him and the reasons for his own decision.

Procedure in cases not triable by amin.

[1][**10 A.** (1) When any offence other than an offence triable by an amin is committed, the local amin shall hold an investigation, and if a *prima facie* case is made out against any person, such person shall be charged before and tried by the Inspecting officer or the Collector, or any of the Collector's assistants empowered by the Collector by general or special order in this behalf.

(2) The Inspecting officer or the Collector or any of the Collector's assistants empowered under sub-section (1), when trying a case in accordance with the provisions of sub-section (1), shall, when the trial is held in the islands, sit with two or more island assessors.

Procedure of superior officers in criminal cases.

10 B. The procedure prescribed in section 10 shall, as far as may be, be applicable to trials held by the Inspecting officer or the Collector or any of the Collector's assistants under the provisions of sub-section (1) of section 10 A.

Security for keeping the peace and for good behaviour.

10 C. Whenever, after such inquiry as he thinks fit, the Inspecting officer or the Collector or any of the Collector's assistants empowered under sub-section (1) of section 10 A is satisfied that any person in the islands—

(*a*) is a habitual offender, or

(*b*) is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, or

(*c*) is so desparate and dangerous as to render his being at large without security hazardous to the community,

he may require such person to execute a bond, with sureties, for keeping the peace or for his good behaviour for such period not exceeding three years as he thinks fit to fix.

Imprisonment in default of security.

10 D. If any person required to give security under section 10 C does not give such security, he shall be committed to prison or, if he is already in prison, be detained in prison

---

1 Sections 10 A to 10 E were inserted by section 9 of the Laccadive Islands [illegible] Regulation, 1926 (Regulation I of 1926).

until the period fixed under section 10 C expires, or until within such period he gives the security. Imprisonment for failure to furnish security may be either simple or rigorous.

10 E. The Collector, or, subject to the control of the Collector, the Inspecting officer, may at any time cancel any bond for keeping the peace or for good behaviour executed under section 10 C or section 10 D, or may release from prison any person imprisoned for failure to give security.] Power of superior officers to cancel bonds or to release from prison.

11. (1) The Collector may withdraw to his own file any case pending before the Inspecting officer or an amin. Withdrawal or transfer by Collector.

(2) The Collector may transfer any case pendingbefore himself or before the Inspecting officer to any of [the Collector's assistants] [1] for trial.

(3) The Inspecting officer maywithdraw to his own file any case pending before an amin.

12. From any sentence or order passed by an amin an appeal shall lie either to the Collector or the Inspecting officer in cases in which the Collector or the Inspecting officer grants special leave to appeal. Appeals from decisions of amin.

13. Any person convicted by the Inspecting officer or by a [Collector's assistant] [2] may appeal (*a*) to the High Court if the sentence is one of death or of imprisonment for five years or upwards, and (*b*) to the Collector in other cases if the sentence exceeds three months' imprisonment or one hundred rupees fine. Appeals from decision of the Island inspecting officer or Divisional officer.

14. From any sentence or order [3] [other than an order under section 10 C or section 10D] passed by the Collector as a Court of original criminal jurisdiction an appeal shall lie to the High Court. Appeals from the Collector.

15. No second appeal shall lie in any case whatever. No second appeals.

16. Every appeal shall be stamped with an eight-anna stamp, and shall be accompanied by a copy on stamped copy paper of the judgment or order appealed against : Provision as to stamps.

Provided that nothing in this section shall apply to an appeal by a prisoner.

17. Every appeal shall be filed within six months from the date of the judgment or order appealed against : Limitation of appeal.

---

1 The words "the Collector's assistants" were substituted for the words "his Divisional officers" by section 10 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926; (Regulation I of 1926).

2 The words "Collector's assistant" were substituted for the words "Divisional officer" by section 11 *ibid.*

3 The words within square brackets were inserted by section 12 *ibid.*

Provided that the months of June, July, August and September shall be excluded in reckoning such period.

Representation of parties.

18. No pleader shall be allowed in any Court except with the special permission of the Collector. Parties may, however, be represented by their island mukhtyars.

Powers-of-attorney.

19. Every mukhtyar, appearing before a Court on the mainland on behalf of a party in the islands, must produce a stamped mukhtyarnama or power-of-attorney bearing a court-fee stamp of eight annas.

Detention of convicts in common jail in certain cases.

20. Any person convicted of a criminal offence and sentenced to a term of imprisonment exceeding two months by a Court on the islands, or to any term of imprisonment by a Court on the mainland, may be sent for imprisonment to the Cannanore Central Jail.

CHAPTER IV.

CIVIL JUSTICE.

Law to be administered in civil courts.

21. All questions relating to any rights claimed or set up in the civil courts of the islands shall be determined in accordance with any custom not manifestly unjust or immoral governing the parties or property concerned, and, in the absence of any such custom, according to justice, equity and good conscience.

Period of limitation for suits.

[1] [**21A.** Every suit instituted after a period of three years from the date on which the cause of action arose shall be dismissed, although limitation has not been set up as a defence :

Provided that this section shall not apply to suits instituted before or within one year after the commencement of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926.]

Constitution of Civil Courts.

22. The local amin of each island sitting with four or more assessors shall be the Civil Court for the island, and shall have jurisdiction over all civil claims arising therein.

Commencement of suit.

23. Every suit shall be commenced by presenting a plaint to the amin having jurisdiction over the suit.

Transferred suits.

24. The Collector or the Inspecting officer may transfer any civil suit to his own file and shall then proceed to try it sitting with two or more of the island assessors. The Collector

---

1 Section 21 A was inserted by section 13 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Regulation I of 1926).

may transfer any such suit from his own file to that of any of his [assistants][1] who shall proceed to try the case with two or more such assessors.

25. (1) The Collector or the Inspecting officer may refer any case for disposal or report to two or more of the island assessors. When it is referred for disposal, the assessors shall report their decision to the Court referring the case. Reference to assessors.

(2) The parties may challenge any assessor, and on sufficient reason being given another assessor shall be selected in his place.

(3) The parties shall be allowed to attend the hearing of the suit in person or by a mukhtyar, and the evidence shall be taken in open Court.

(4) The officer trying the suit shall make a memorandum of the evidence of each witness as it is given, and shall, after the conclusion of the hearing, pronounce judgment in open Court either in the presence of the parties or after notice to them. The judgment shall be in writing and shall contain the points for determination and the decision thereon.

26. (1) An appeal shall lie from the decision of the amin to the Inspecting officer or to the Collector. The Collector may transfer any such appeal to the Inspecting officer or [one of the Collector's assistants] [2] for disposal. Appeals.

(2) No appeal shall ordinarily lie from a decision of the Inspecting officer in the exercise of his original jurisdiction, but an appeal may be admitted by the Collector if sufficient grounds are shown. From a decision of a [Collector's assistant][3] in the exercise of his original jurisdiction an appeal shall lie to the Collector.

(3) Save as otherwise provided in section 31, an appeal shall lie to the High Court from any decision of the Collector in the exercise of his original jurisdiction.

27. The provisions of section 15, 16, 17, 18 and 19 shall also apply to civil cases. Application of certain sections to civil cases.

28. All decrees shall ordinarily be executed by the amin of the island where the suit was instituted. But the Collector or the Inspecting officer may execute his own decrees if convenient. Execution of decrees.

---

1 The word "assistants" was substituted for the words "Divisional officers" by section 14 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Regulation I of 1926)

2 The words "one of the Collector's assistants" were substituted for the words "any other of his Divisional officers" by section 15 *ibid.*

3 The words "Collector's assistant" were substituted for the words Divisional officer" by *ibid.*"

Resistance to execution.

29. If a judgment-debtor wilfully refuses to obey the decree of the Court, he shall be liable to punishment under section 8, sub-section (2), and where the amin is of opinion that such punishment is inadequate, the procedure prescribed in section 9 [sub-section (4)],[1] shall be followed.

Attachment and sale.

30. Cases in which attachment and sale of property is found necessary shall be reserved for the Inspecting officer, who shall attach the property of the judgment-debtor and sell it in execution of the decree.

Service of process.

31. Decrees or processes issued by a main land Court against an islander, or by one island Court against a person residing in another island, shall be forwarded to the Collector for execution; and he shall cause it to be executed unless for reasons to be recorded in writing he may consider execution inadvisable, in which case he may refuse to execute it. In the case of any such refusal an appeal shall lie to the Governor in Council.

Saving of inherent powers of Civil court.

32. Nothing in this Regulation shall be deemed to limit or otherwise affect the inherent power of a Civil Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the powers of the Court.

CHAPTER V.

MISCELLANEOUS.

Power of Governor in Council to exclude from any island persons not natives of that island.

[2] [**33.** The Governor in Council may by order—

(*a*) prohibit any person from visiting or taking up his residence in an island of which he is not a native, and

(*b*) require any person to leave an island of which he is not a native,

and may make such rules as he deems fit to carry out the purposes of this section.]

---

[1] The words and figure "sub-section (4)" were substituted for the words and figure "sub-section (3)" by section 16 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Regulation I of 1926)

[2] Section 33 was substituted for the original section by section 17 *ibid.*

REGULATION No. I of 1926.

[The Laccadive Islands and Minicoy (Amendment) Regulation, 1926.]

[*Received the assent of the Governor General on the* 2nd *January* 1926; *published in the Gazette of India on the* 9*th January* 1926 *and in the Fort St. George Gazette on the* 26*th January* 1926.]

A Regulation to amend the Laccadive Islands and Minicoy Regulation, 1912.

Whereas it is expedient to amend the Laccadive Islands I of 1912. and Minicoy Regulation, 1912; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Laccadive Islands and Minicoy (Amendment) Regulation, 1926.

Amendment of section 3, Regulation I of 1912.

2. In section 3 of the Laccadive Islands and Minicoy I of 1912. Regulation, 1912 (hereinafter referred to as the said Regulation), after the words and figures "State Prisoners Act, XLV of 1860. 1858," the words "the Indian Penal Code" shall be inserted.

Repeal of section 4, Regulation I of 1912.

3. Section 4 of the said Regulation is hereby repealed.

Substitution of new section for section 5, Regulation I of 1912.

4. For section 5 of the said Regulation the following section shall be substituted, namely :—

[*Vide p.* 276 *supra.*]

Repeal of section 6, Regulation I of 1912.

5. Section 6 of the said Regulation is hereby repealed.

Substitution of new sub-section for sub-section (2) of section 8 Regulation I of 1912.

6. For sub-section (2) of section 8 of the said Regulation the following sub-section shall be substituted, namely :—

[*Vide p.* 277 *supra.*]

Insertion of new section 8 A in Regulation I of 1912.

7. After section 8 of the said Regulation the following section shall be inserted, namely :—

[*Vide p.* 277 *supra.*]

Substitution of new section for section 9, Regulation I of 1912.

8. For section 9 of the said Regulation the following section shall be substituted, namely :—

[*Vide p.* 277 *supra.*]

Insertion of new sections 10 A, 10 B, 10 C, 10 D and 10 E in Regulation I of 1912.

9. After section 10 of the said Regulation the following sections shall be inserted, namely :—

[*Vide pp.* 278–279 *supra.*]

Amendment of section 11, Regulation I of 1912.

10. In sub-section (2) of section 11 of the said Regulation, for the words "his Divisional officers" the words "the Collector's assistants" shall be substituted.

Amendment of section 13, Regulation I of 1912.

11. In section 13 of the said Regulation, for the words "Divisional officer" the words "Collector's assistant" shall be substituted.

Amendment of section 14, Regulation I of 1912.

12. In section 14 of the said Regulation, after the word "order" the words and figures "other than an order under section 10 C or section 10 D." shall be inserted.

Insertion of new section 21A in Regulation I of 1912.

13. After section 21 of the said Regulation the following section shall be inserted, namely :—

[*Vide p.* 280 *supra.*]

Amendment of section 24, Regulation I of 1912.

14. In section 24 of the said Regulation, for the word "Divisional officers" the word "assistants" shall be substituted.

Amendment of section 26, Regulation I of 1912.

15. In section 26 of the said Regulation,—

(*a*) in sub-section (1) for the words "any other of his Divisional officers" the words "one of the Collector's assistants" shall be substituted ; and

(*b*) in sub-section (2), for the words "Divisional officer" the words "Collector's assistant" shall be substituted.

Amendment of section 29, Regulation I of 1912.

16. In section 29 of the said Regulation, for the words and figure "sub-section (3)" the words and figure "sub-section (4)" shall be substituted.

Substitution of new section for section 33, Regulation I 1912.

17. For section 33 of the said Regulation the following section shall be substituted, namely :—

[*Vide p. supra* 282.]